U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

Dear Owners and Management Agents:

The purpose of this letter is to assist you in complying with the Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of Enterprise Income Verification – Amendments final rule which became effective on January 31, 2010, and to request your assistance with the Department of Housing and Urban Development's (HUD's) efforts to make use of the Enterprise Income Verification (EIV) system as effective as possible. To assist you in implementing the requirements of the final rule, HUD has issued Notice H10-08, Implementation of Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System - Amendments; Final Rule which is available on HUDCLIPS at http://www.hud.gov/offices/adm/hudclips/.

Now that use of the EIV system is mandatory, you will find it a helpful tool to use at the time of recertification to verify a tenant's employment and income and that use of EIV will reduce your administrative burden in complying with third-party income verification requirements. The full and effective use of all of the features of EIV will enable HUD and Owners and Management Agents (O/As) to work together to increase the accuracy of rent and income determinations and ensure that the right benefits go to the right persons so that limited federal housing resources can assist those most in need. The use of EIV also supports the Rental Housing Integrity Improvement Project (RHIIP) and President Obama's Executive Order 13520, Reducing Improper Payments, signed on November 20, 2009.

The successful verification of employment and income through the EIV system depends on the form HUD-50059 information that is transmitted to the TRACS database being correct; namely an individual's Social Security Number (SSN), last name, and date of birth (DOB). This is why the final rule referenced above also revised the SSN disclosure and verification requirements to require that all applicants and tenants disclose their SSNs with few exceptions.

HUD asks that you immediately take the following steps, described in more detail below where appropriate, in order to ensure the effectiveness of the newly mandated EIV system:

1) **Get Access to the EIV System** as soon as possible if you do not have access yet;

2) **Implement the Revised SSN Requirements and Notify Applicants and Tenants About the Revised Requirements**;

   Summary of Revised SSN Disclosure and Verification Requirements

   Tenants - As of January 31, 2010, all individuals, **including those under the age of six**, must now disclose a valid SSN. The only exceptions to this requirement are for tenants age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun prior to January 31, 2010, and individuals who have not claimed eligible

immigration status. **The exemption for persons 62 and older does not apply to new applicants coming into your property unless they were already receiving federal housing assistance somewhere else on January 31, 2010.** Individuals who have already disclosed a valid SSN do not have to redisclose their SSN. Affected tenants must provide verification of SSNs at the time of their next interim or annual recertification if the following criteria apply:

- They have not previously disclosed a SSN;
- They previously disclosed a SSN that HUD or the SSA determined was invalid; or
- They have been issued a new SSN.

Please see the final rule for additional requirements that must be met when a tenant requests to add a new household member.

The penalty for affected tenants' non-disclosure of SSNs is the termination of tenancy of the household. O/As may provide tenants with an additional 90 days past the recertification date to comply with the SSN requirements if the failure to comply is due to circumstances outside of the tenant's control and there is reasonable likelihood that the tenant will be able to comply by the deadline date. After this 90-day deferral, if the tenant has not met the SSN disclosure and verification requirements, the tenancy of the entire household must be terminated.

Applicants - Each member of an applicant's household except for those who do not claim to have eligible immigration status and persons 62 and older who were already receiving federal housing assistance somewhere else on January 31, 2010, must disclose such SSN before the household may be housed. However, they do not need to have or disclose their SSN in order to be placed on the waiting list. Furthermore, they may retain their place on the waiting list if all household members required to disclose a SSN cannot do so at the time a unit becomes available for them.

3) **Correct Errors Identified in EIV Failed Identity Verification Reports** as required by Notice H09-20, Enterprise Income Verification (EIV), issued on December 7, 2009, in order to clear up invalid, discrepant or missing information in the TRACS database.

The two reports in EIV that list tenants with incorrect personal identifiers (SSN, last name or DOB) are the Failed EIV Pre-Screening Test and the Failed Verification Report (Failed the SSA Identity Test). The reports can be accessed by clicking on the Identity Verification Report link on the EIV Navigation Panel on the left side of the page. Nationwide, there are close to 14,000 individuals who have failed the EIV Pre-Screening Test and over 65,000 additional individuals who have failed the SSA Identity Test. This means that if all of these individuals have income, there is no income information in EIV for almost 80,000 tenants living in one of HUD's subsidized multifamily properties. Therefore, HUD needs your help in correcting the errors in the personal identifiers as soon as possible so that employment and income information is available in EIV for these individuals. Thereafter, Notice H09-20 requires you to access

the two failed verification reports monthly and pages 22-23 of the Notice provide further instructions on making the corrections.

4) **Follow Up on Any Deceased Tenants Identified for Your Property(ies),** on a Deceased Tenants List that will be sent to you separately, if applicable, to ensure that HUD is not paying subsidy on behalf of any tenant whom you verify is deceased. If you receive a Deceased Tenants List the following actions must be taken immediately:

- Confirm with the head-of-household, next of kin or emergency contact person or entity whether or not the person is deceased.
- If the person is deceased:
  - Update the family composition and income and allowances, if applicable, on the form HUD-50059. The effective date of the form HUD-50059 should be in accordance with the instructions in Paragraph 7-13D of Handbook 4350.3 REV-1, Occupancy Requirements of Subsidized Multifamily Housing Programs.
  - In the case of a deceased single member of a household, process a Move-out using form HUD-50059A. The effective date of the form HUD-50059A will be retroactive back to the earlier of 14 days after the tenant's death or the date the unit was vacated.
- Any overpayment of subsidy that was paid on behalf of the deceased tenant must be repaid to HUD.
- If the tenant is not deceased, encourage him/her to contact the SSA to correct any inaccurate data in SSA's databases.

To assist you in carrying out these steps, the following enclosures are either included with this letter, or can be downloaded from the HUD Multifamily RHIIP website at http://www.hud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm. Below is a description of these enclosures to assist you in carrying out the four steps described above.

Enclosure A – Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of Enterprise Income Verification – Amendments;
Final Rule

Enclosure B – Instructions for Applying for Access to the EIV System

Enclosure C – SSN Flyers and Application
In order to ensure that you are compliant with the revised regulations, HUD asks that you notify your applicants and tenants of the revised SSN requirements described below as soon as possible if you have not already done so. To assist you, this enclosure includes informative flyers for applicants and tenants and a copy of a SSN application (or SS-5 form) to be provided to those applicants and tenants without a SSN. The appropriate flyer and SS-5 form should be given to each applicant and tenant household.

HUD will be checking its systems regularly to make certain that actions are being taken by O/As to implement the SSN requirements and to rectify incorrect tenant information. In order to receive further updates regarding the EIV system, if you have not already done so, please sign up for the Multifamily Housing RHIIP (Rental Housing Integrity Improvement Program) Tips listserv, the link for which can be found at www.hud.gov/subscribe/index.cfm.

Thank you in advance for taking prompt action towards ensuring the accuracy of rent and income determinations through the use of EIV, thereby reducing improper payments and preserving the integrity of HUD's rental assistance programs. If you have any questions, please contact your Housing Management Officer at 605/773-3181.

Sincerely,

Vona Johnson

Vona Johnson, Director
Rental Housing Management

Enclosures

Enclosure A – Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of Enterprise Income Verification – Amendments final rule
Enclosure B – Instructions for Getting Access to the EIV System
Enclosure C – SSN Flyers and Application

1) SSN Flyer for Applicants
2) SSN Flyer for Tenants
3) SS-5 Application for SSN

Note: The enclosures listed above can also be found on the HUD Multifamily RHIIP website at http://www.hud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm.

Enclosure A

Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of Enterprise Income Verification – Amendments final rule

Federal Register

Tuesday,
December 29, 2009

Part III

Department of Housing and Urban Development

24 CFR Parts 5 and 908

Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System—Amendments; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 908

[Docket No. FR–5351–F–02]

RIN 2501–AD48

Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System—Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: On January 27, 2009, HUD issued a final rule that revised the regulations for its public and assisted housing programs to require the use of the Enterprise Income Verification system by public housing agencies and multifamily housing owners and management agents when verifying the employment and income of program participants. Consistent with Administration policy to review rules issued during the transition from one Administration to another, HUD re-opened the January 27, 2009, final rule for public comment, and delayed the effective date of the regulatory amendments to January 31, 2010. The public comments received in response to solicitation of comments on the January 27, 2009, final rule highlighted certain regulatory provisions requiring further clarification and others extraneous to the purpose of the rule, which was full implementation of the Enterprise Income Verification (EIV) system. On October 15, 2009, HUD published a proposed rule soliciting public comment on proposed revisions to the January 27, 2009, final rule that would clarify certain provisions of the January 27, 2009, final rule and return other regulatory provisions to their pre-January 2009, final rule content.

This final rule follows publication of the October 15, 2009, proposed rule, and takes into consideration the public comments received on the proposed rule. After careful consideration of the issues raised by the commenters, HUD has decided to make three minor technical changes to the October 15, 2009, proposed rule to clarify the scope of the provision governing termination of assistance, and the scope of the Social Security number (SSN) disclosure requirements applicable to new household members under the age of 6 and current participants 62 years of age or older.

DATES: *Effective Date:* January 31, 2010.

FOR FURTHER INFORMATION CONTACT: For Office of Public and Indian Housing programs, contact Nicole Faison, Program Advisor for the Office of Public Housing and Voucher Programs, Department of Housing and Urban Development, 451 7th Street, SW., Room 4214, Washington, DC 20410, telephone number 202–402–4267. For Office of Housing Programs, contact Gail Williamson, Director of the Housing Assistance Policy Division, Department of Housing and Urban Development, 451 7th Street, SW., Room 6138, Washington, DC 20410, telephone number 202–402–2473. (These are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On January 27, 2009, at 74 FR 4832, HUD published a final rule, entitled "Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs" (January Final Rule). The January Final Rule revised HUD's public and assisted housing program regulations to implement the upfront income verification process for program participants and to require the use of HUD's EIV system by public housing agencies (PHAs) and owners and management agents (O/As) (collectively referred to in this final rule as "processing entities"). The January Final Rule followed publication of a June 19, 2007 proposed rule, at 72 FR 33844, and took into consideration the public comments received on the June 2007 proposed rule.

The January Final Rule was originally scheduled to become effective on March 30, 2009. On February 11, 2009, at 74 FR 6839, HUD published a notice in the **Federal Register** seeking public comment on whether to delay the effective date of the January Final Rule. The February 11, 2009, notice was issued in accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review" and subsequently published in the **Federal Register** on January 26, 2009 (74 FR 4435). The notice explained that HUD was considering a temporary delay in the effective date to allow the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff memorandum. In addition to soliciting comments specifically on delaying the effective date, the February 11, 2009, notice also requested comment generally on the January Final Rule.

The comment period on the February 11, 2009, notice closed on March 13, 2009. HUD received 50 public comments. Comments were submitted by a variety of organizations, including PHAs, property owners, management agents, legal aid organizations, community development organizations, and public interest organizations. The majority of comments were supportive of a delayed effective date. The commenters not only supported a delay, but sought clarification or changes by HUD of certain aspects of the January Final Rule, about which questions and comments were raised. Among other issues, commenters requested that HUD address the need to revise the definition of "annual income," and to clarify the verification procedures applicable to noncitizens and participants who may experience difficulty obtaining SSNs for their children.

Following publication of the February 11, 2009, **Federal Register** notice, HUD issued a final rule on March 27, 2009 (74 FR 13339), that extended the effective date of the January Final Rule to September 30, 2009. The purpose of this extension was to provide HUD with time to review the public comments received in response to the February 11, 2009, notice. On August 28, 2009, at 74 FR 44285, HUD published a final rule that further extended the effective date of the January Final Rule to January 31, 2010. The further extension was undertaken to allow the two HUD Assistant Secretaries, who have responsibility for the programs affected by the rule and were then only recently confirmed, sufficient time to review the subject matter of the January Final Rule, and to review and consider the public comments received on HUD's February 11, 2009, **Federal Register** notice.

II. The October 15, 2009, Proposed Rule

On October 15, 2009, at 74 FR 52931, HUD published a proposed rule soliciting public comment on proposed regulatory revisions to the January Final Rule to address the issues and concerns raised by the public commenters on the January Final Rule. The regulatory changes proposed by HUD in the October 15, 2009, proposed rule were few and the changes focused on addressing issues raised by the commenters regarding the purpose of the January Final Rule, which is full implementation of the EIV system. Other issues raised by the commenters but extraneous to EIV implementation were deferred for future consideration. Specifically, the Department proposed to withdraw the January Final Rule

amendments to the definition of annual income and to HUD's noncitizens regulations and return these provisions to their pre-January 2009 content.

The October 15, 2009, proposed rule reiterated HUD's commitment to the full and effective implementation of the EIV system. The most significant regulatory changes proposed by the October 15, 2009, rule were designed to simplify the SSN disclosure and verification processes, to the extent feasible, and consistent with maintaining confidentiality of these processes. Specifically, HUD proposed to alleviate the potential burdens imposed on seniors by exempting current participants who are 62 years of age or older from having to disclose a SSN. HUD also proposed to reduce administrative burden by exempting all participants, regardless of age, who have previously disclosed a valid SSN and have not been issued a new SSN from having to re-provide their SSN for duplicative verification. The proposed rule would also permit compliance with the SSN disclosure requirements through submission of a valid SSN card issued by the Social Security Administration or an original document issued by a Federal or State government agency that provides the SSN of the individual along with other identifying information. Further, HUD proposed to revise and clarify the applicability of the SSN disclosure requirements for households adding new household members under the age of 6. The proposed rule would also provide processing entities with additional flexibility to determine the timing of disclosure of a newly assigned SSN, and to defer the termination of a participant who fails to comply with the SSN disclosure requirements due to unforeseen circumstances outside the control of the household.

Interested readers are referred to the preamble of the October 15, 2009, proposed rule for additional information regarding the proposed regulatory amendments to the January Final Rule.

III. This Final Rule; Technical Changes to October 15, 2009, Proposed Rule

This final rule takes into consideration the public comments received on the October 15, 2009, proposed rule. The public comment period on the proposed rule closed on November 16, 2009, and HUD received 21 comments. Comments were submitted by PHAs, multifamily property managers, national organizations representing PHAs and O/As, housing service providers for the aging, legal aid organizations, and private individuals. After careful consideration of the issues raised by the commenters, HUD decided to make three minor technical changes to the October 15, 2009, proposed rule. Specifically, this final rule clarifies that new household members under the age of 6 who already have a SSN are subject to the same disclosure and verification requirements as new household members who are at least 6 years of age. The final rule also clarifies that, subject to the exemptions allowed, an entire household may lose its tenancy if one member of the household does not comply with the SSN disclosure requirements. This was the position that HUD took in the final rule issued on January 27, 2009, and was not proposed to be changed by the October 15, 2009, proposed rule. HUD emphasizes, however, that the possible loss of tenancy is subject to the exemptions provided in HUD's regulations. HUD has also taken the opportunity afforded by this final rule to clarify that a participant who qualifies for the senior exemption to the SSN disclosure requirements is exempt from the SSN requirements for all future income examinations, even if the senior moves to a new HUD-assisted property.

The regulatory amendments made by this final rule supersede provisions of the January Final Rule that would otherwise take effect on January 31, 2010. The following section of the preamble presents a summary of the significant issues raised by the public commenters on the October 15, 2009, proposed rule and HUD's responses to these issues.

IV. Discussion of the Public Comments Received on the October 15, 2009, Proposed Rule

The majority of the commenters expressed their support for the regulatory changes proposed by the October 15, 2009, proposed rule, and particularly for the EIV system. In general, commenters stated that the EIV system has been an increasingly valuable tool to processing entities, by improving the accuracy of income and rent determinations, uncovering potential fraud, and reducing administrative overhead in assisted housing programs.

Commenters expressed their support for delay in the EIV implementation while HUD took the time to clarify other issues addressed by the January Final Rule. Two commenters, however, encouraged HUD to move forward with a final rule that would address the definition of "annual income." The commenters stated that they support the definition of "annual income" in the January Final Rule. The commenters asked HUD not to wait on statutory changes, for which legislative proposals have been offered for the past 6 years but none have been enacted into law. The commenters encouraged HUD to commence rulemaking on the subject of annual income as expeditiously as possible. HUD is aware of the need to address the issue of annual income and intends to address this issue.

Another comment that was expressed by housing provider commenters that use EIV was on the need for additional guidance and attention by HUD on several aspects of the EIV system. HUD will be providing such guidance to help facilitate mandatory use of EIV in the near future.

A. Comments Regarding EIV Implementation

Comment: Date of mandatory use of EIV. One commenter stated that HUD's January Final Rule was clear on all issues and that EIV implementation should not have been delayed. The commenter stated that the delay in implementation places taxpayer dollars at risk because of the higher possibility that improper subsidies will occur without using EIV. Other commenters, however, supported further delay of mandatory implementation of EIV. One commenter suggested that it might be advisable to further delay the EIV implementation date, given the delays in the release of the long-expected revisions to the current EIV guidance and the need for new training on system use. Another commenter stated that the rule should allow for PHAs to continue exercising the discretion to use EIV and should not make EIV mandatory. The commenter stated that PHAs have found certain non-EIV resources to be more reliable and accurate than EIV in verifying income. The commenter stated that there are still problems with the EIV system and that by mandating use of EIV, a failure on the part of a PHA to use EIV will subject the PHA to sanctions and adverse Office of Inspector General audit findings. The commenter stated that the best solution is to continue to allow PHAs the discretion, but no mandate to use EIV. Another commenter expressed similar concerns about mandating use of EIV by O/As. Another commenter, also concerned with the impact of mandatory EIV use by O/As, stated that HUD has underestimated the success of EIV. This commenter states that HUD should develop an escalated support structure for O/As who still are struggling to get access to secure systems, to EIV, or to working user names and passwords, including a key group of representatives to handle

advanced support issues. This commenter also offered a list of subjects related to EIV on which HUD should provide additional guidance. Another commenter stated that HUD's EIV system cannot serve the functions required under the rule.

HUD Response: HUD remains of the position that mandatory use of EIV, commencing on January 31, 2010, is the proper course of action to follow. For the reasons expressed by the majority of the commenters, the use of upfront income verification will serve as a valuable resource in verifying employment and income while helping to identify and cure inaccuracies in public and assisted housing subsidy determinations, this benefitting public and assisted housing providers, tenants, and taxpayers. Additionally, HUD has already provided a substantial period for affected parties and interested members of the public to comment on the EIV system, and a further delay in implementation of the EIV system is without satisfactory justification. Having said that, however, HUD is cognizant that, as with the use of any information system, improvements will be needed and features can be enhanced, and that users of the system will require ongoing education and guidance. HUD is committed to having the EIV system be as efficient and effective as possible and to making changes that will achieve this objective. As noted earlier, HUD is also committed to issuing guidance on EIV and upfront verification, as well as to continuing to provide the training necessary to ensure that users are familiar with, and capable of successfully implementing, the EIV system.

Comment: Clarify meaning of use of EIV system in its entirety. Several commenters requested that HUD clarify the meaning of using EIV "in its entirety." One of the commenters stated that if processing entities are required to use EIV "in its entirety" and be sanctioned for failing to do so, HUD needs to better explain the meaning of the phrase "in its entirety." The commenter suggested that HUD make the requested administrative guidance easily accessible to processing entities, such as by posting it on HUD's Web site. "If not, "the commenter wrote, "compliance with the requirement will be difficult and enforcement may be arbitrary." Similar to this comment, but expressed slightly differently, two commenters requested that the final rule clearly identify each stage for which EIV is required; that is, whether EIV use is mandatory only for initial admission, or if it is also mandatory for annual reexaminations or interim reexaminations. One commenter stated that housing providers currently cannot access EIV for applicant households prior to admission, and that verification is available only after an applicant household is determined eligible for housing assistance. The reason that such information is not available is that information has not been submitted into the Public and Indian Housing Information Center (PIC). With respect to entities' responsibilities for implementing EIV, a commenter stated that, to avoid confusion, the final rule should more clearly differentiate between the multifamily Section 8 programs in 24 CFR part 880, 881, 883, 884, 886, and 891, and the role of PHAs in the Housing Choice Voucher program (24 CFR part 982). The commenter states that, in the latter program, the PHA is the processing entity, while in the former programs the PHA is not. The commenter stated that it is important for the final rule to clearly address the roles and responsibilities assigned to PHAs, O/As, and contract administrators.

HUD Response: Use of EIV in its entirety means that EIV is required by the PHA or O/A to verify the employment and income of existing tenants at the time of all mandatory reexaminations and recertifications. In addition, the PHA or O/A must use other reports in EIV such as the Failed Verification Report, the Deceased Tenant Report, the Multiple Subsidy Report, etc., at various times to reduce administrative and subsidy payment errors. The inclusion of the "in its entirety" language was in response to commenters on the January 2009 Final Rule who questioned whether the use of the EIV system was required only for income verification with respect to determining eligibility for admission. As noted in the preamble to the October 15, 2009, proposed rule, HUD clarified that processing entities "must use the EIV system in its entirety as a third party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income and also to reduce administrative and subsidy payment errors in accordance with HUD administrative guidance" (74 FR 52931, 52934 first column).

With respect to initial admission, EIV cannot be used by processing entities to verify an applicant's income, since form HUD–50058 or HUD–5009 is not transmitted to HUD until after the family is admitted to the program. HUD will issue administrative guidance with respect to the timeframe for consulting the EIV system once the form HUD–50058 or HUD–50059 has been transmitted. This will allow processing entities to promptly follow up with the family to discuss, in a timely manner, any EIV-noted disparities in reported family employment, income, identity, or receipt of duplicate rental assistance and make any necessary subsidy adjustments based on confirmed information that may not have been reported or may have been understated by the family. HUD obtains income information for all newly admitted families within 60 days of receiving the form HUD–50058 or HUD–50059 from the processing entities.

HUD believes that the final rule is clear on the roles and responsibilities of the processing entities that are charged with using EIV, but will publish additional administrative guidance that outlines the requirements for the use of EIV by PHAs, O/As, and contract administrators.

Comment: Compatibility of EIV with non-HUD programs. Two commenters expressed concern with the reliance on EIV when HUD's housing programs are combined with other housing programs that rely on HUD income determinations, such as low-income housing tax credits (LIHTCs). The commenters expressed concern that non-HUD providers will not be able to use the EIV data to which HUD housing providers have access.

HUD Response: Use of EIV data is available, and limited to, the processing entity (and their hired management agents) who have transmitted a form HUD–50058 and HUD–50059 to the PIC and Tenant Rental Assistance Certification System (TRACS), respectively.

Disclosing EIV information to O/As for use under the LIHTC program or the Rural Housing Service (RHS) Section 515 program is not allowed since neither the Internal Revenue Service nor the RHS are a party to the computer matching agreements that HUD has with the Department of Health and Human Services and the Social Security Administration, which provide the income and benefit data in EIV. The fact that there is financing through other federal agencies involved in a particular property under one of the authorized HUD programs does not then permit that federal agency to use or view information in the EIV system that is covered by the computer matching agreements.

Comment: EIV should not be relied upon for third party verification. Several commenters advised of difficulties using the EIV system as a third party source to verify employment and income. The commenters stated that the data available in EIV is frequently outdated, in some instances over 6 months old.

One commenter stated that EIV was not designed to be the sole, main, or primary source of income verification. The commenter stated that the final rule should identify circumstances under which independent third party verification must be used to complement upfront verification of income using the EIV system, such as when a tenant disputes the EIV data or a PHA believes it needs additional information. Other commenters stated that the mandate to use EIV would result in processing entities relying on EIV data they know to be inaccurate, rather than using other, more accurate sources of income and rent data in order to avoid HUD findings of noncompliance with regulatory requirements or failure to properly manage assisted housing programs. The commenters stated that, rather than requiring use of EIV, EIV should simply be another tool available to housing providers for verifying the completeness and accuracy of reported income.

HUD Response: As stated earlier, HUD is aware that EIV is not a perfect system but EIV has been found to be an effective verification system. EIV has been praised by the Government Accountability Office (GAO) as "an important part of [HUD's] plan for reducing improper rental assistance payments" and as providing processing entities "with an efficient method for validating the incomes of families receiving assistance."[1] As with any electronic database, there may be, at times, a certain amount of delay between actual changes in income and employment information and updates to the EIV data. Although HUD has no control over the time lag in these data, which are provided by other sources, the Department understands the concerns raised by the commenters. The Department has and will continue to issue guidance on how to use the data in EIV as third party verification despite the time lag.

Comment: Additional resources for successful EIV implementation. One commenter stated that, while EIV is a valuable tool for combating fraud, waste, and abuse, EIV has increased the administrative workload on processing entities. The commenter stated that HUD should "make available grants to PHAs that are earmarked for providing additional resources and investigative/paralegal staffing for combating fraud and program abuse."

HUD Response: HUD disagrees with the commenter that use of the EIV system increases administrative workload. EIV is an automated system that is free to the user and available 24 hours a day, 7 days a week. In contrast to a manual system, EIV has been determined to be the most effective, efficient, and least burdensome way to verify income. Further, HUD will be issuing guidance to processing entities on how to use EIV as effectively and efficiently as possible.

Comment: EIV may negatively affect HUD auditors. One commenter stated that the stringency of the EIV system may interfere with an auditor's access to tenant income and employment information in the testing of lease files as required by the HUD Consolidated Audit Guide. The commenter stated that the choices available to auditors would be to gain EIV access as a "Non-HUD User," or view the required information in a very limited fashion. The commenter stated that, while gaining access as a Non-HUD User affords the maximum flexibility in viewing the information, there are large administrative burdens involved, the costs of which cannot be passed on. On the other hand, the commenter stated, the second, less burdensome option limits access to hardcopy files. According to the commenter, these files may be located at multiple property sites and it is unclear whether the files may be transmitted between sites. The commenter stated that auditors would incur prohibitive costs if required to visit all project sites to view hardcopy files. The commenter urged HUD to devise another way for auditors to access the necessary EIV data, and to clarify the protocols regarding the copying and transmittal of this sensitive information.

HUD Response: HUD will take under advisement the suggestions made by the commenter and review ways to facilitate the vital work performed by auditors. HUD notes that auditors are authorized to view EIV records contained in tenant files for the purpose of determining program compliance; however, third party auditors are not authorized to obtain access to EIV. The requirements governing the accessing of EIV data by independent public auditors have been imposed by the entities with which HUD has the computer matching agreements. In addition, HUD has a duty to safeguard the integrity of the EIV system and to protect the confidentiality of the income and employment data contained in the system. HUD takes this responsibility seriously and will ensure that any access to EIV data contains appropriate privacy protections.

B. Comments Regarding SSN Disclosure and Verification Requirements

1. General Comments on Scope, Applicability of and Exemption of SSN Requirements

Comment: Authority to require SSN disclosure. A few commenters questioned HUD's authority to require SSN disclosure as a condition of participation in federally assisted housing programs. The commenters stated that HUD has not provided an analysis to support its position and that there is no statutory authorization for the requirement of having a SSN as a condition for receipt of benefits. The commenters stated that, while HUD has authority to deny housing assistance to people who have been issued SSNs and failed to disclose them, HUD has pointed to no authority allowing it to deny assistance to individuals who have never had SSNs assigned, and where the individual certified to that effect. The commenters requested that the final rule retain the ability for individuals who have not had a SSN assigned to certify to that fact.

HUD Response: The SSN disclosure and verification requirements made effective by this final rule are consistent with the authorizing statutes for the various HUD programs affected by the rule, and are issued pursuant to the general rulemaking authority granted HUD by section 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)). Section 7(d) provides the Secretary with the authority to "make such rules and regulations as may be necessary to carry out his functions, powers, and duties." The statutes governing HUD's housing assistance programs establish criteria for those who seek to reside in such housing and, for all of those programs, eligibility criteria include income requirements and citizenship and legal immigration requirements, at a minimum. HUD has an obligation to ensure that those receiving housing assistance meet the statutory criteria, and to minimize any opportunity for fraud, waste and abuse. Contrary to the statements made by the commenters that HUD has failed to provide a need for the SSN requirements, HUD has explained its rationale for the modified disclosure and verification procedures in the preambles to the various rules associated with this rulemaking, including the preamble to this final rule. The EIV system will help to identify and cure inaccuracies in public and assisted housing subsidy determinations, thus benefitting public and assisted housing providers, tenants, and taxpayers. The EIV system relies on the inputting of a SSN to verify income and employment

[1] GAO, *High Risk Series: An Update*, GAO–07–310 (Washington, DC, January 2007), at page 14.

data. Accordingly, the SSN disclosure requirements are an essential component to the full and successful implementation of EIV. Contrary to the belief of the commenters, a certification to the lack of a SSN has never, on its own, been acceptable to permit an individual to become a participant in a HUD rental assistance program.

Notwithstanding the need for SSN disclosure, HUD is cognizant of the potential hardship that the requirements may impose on some households and has attempted, where possible, to mitigate such burden. HUD believes that the final rule strikes the appropriate balance between the need to fully implement EIV and avoiding the imposition of undue regulatory burden.

As discussed more fully elsewhere in this preamble, this final rule exempts the elderly residing in HUD subsidized housing from having to disclose a SSN and has extended the applicable disclosure deadlines for households adding new children or who fail to comply with the SSN requirements due to unforeseen circumstances.

Comment: Allow flexibility in verification for unexpected circumstances. One commenter stated that the costs and potential incorrect terminations of assistance outweigh the potential benefits of a strict identity verification system. HUD should evaluate the fact that, in many cases, the non-disclosure is justifiable and that non-verified tenants make up a very small percentage of the total, against the harm caused by rigid barriers to housing, such as increased homelessness. The commenter states that eligible household members may lack a SSN because they are ineligible for a SSN or face some other logistical barrier to getting one. The commenter stated that examples of such barriers include: victims of human trafficking who are eligible for benefits under 22 U.S.C. 7105(b); individuals granted withholding of deportation; children of immigrant families, and other similar examples given in the comment. The commenter stated that HUD should allow a broader range of documentation to allow for such situations. Related to the request to not establish a strict identity verification system, the commenter stated that the rule should make clear that prorated assistance is available to families who are unable to disclose a SSN. The commenter also stated that participants should not be punished for circumstances beyond their control, and that the language in paragraph (c)(2) of § 5.218 (Penalties for failing to disclose and verify Social Security and Employer Identification Numbers), which states that the housing provider "may defer termination," should be changed to "must defer termination."

HUD Response: HUD disagrees that the verification system being established by this rulemaking is strictly an identity verification system, and HUD has allowed flexibility in several areas where HUD found it could provide flexibility, yet maintain the need to ensure that individuals and families being provided housing assistance under HUD programs meet the eligibility requirements for these programs. With respect to the issue of proration of assistance, HUD has not proposed to change its regulations governing proration of assistance. Proration of assistance applies only to those who do not contend eligible immigration status. There is no proration of assistance for noncompliance with the SSN disclosure requirements. With respect to penalties, HUD believes it is important to leave discretion with the processing entities, who are in the best position to determine, given the circumstances confronted, when deferral of termination is warranted.

Comment: Definition of "valid SSN." One commenter wrote that the term "valid SSN" should be defined as a SSN that has not been identified as invalid by the EIV system.

HUD Response: HUD's position is that the meaning of the term "valid SSN" is clear from the context of the regulatory language, and a codified definition is not necessary. The commenter correctly notes that a valid SSN is one that has not been identified as invalid by the EIV system, either when the SSN is initially disclosed or during a subsequent examination conducted by the processing entity.

Comment: Does a household include live-in aides and foster children? One commenter asked whether live-in aides and foster children are considered household members subject to the SSN disclosure and verification requirements. Another commenter stated that there should be an exemption for foster children because fostering agencies will not always disclose the SSN.

HUD Response: Live-in aides and foster children are subject to the SSN requirements.

Comment: Disclosure of newly assigned SSN. One commenter suggested the removal of the language providing that a newly assigned SSN must be disclosed "at such earlier time specified by the processing entity" (§ 5.216(e)(2)(iii)). The commenter stated that the processing entity should not have the ability to determine when a newly assigned SSN should be disclosed.

HUD Response: Section 5.216(e)(2), to which the commenter objects, requires that a newly assigned SSN be disclosed no later than the next regularly scheduled reexamination or recertification of income and family composition, but provides processing entities with the discretion to require disclosure at some earlier time. This regulatory section is designed to provide processing entities with the operational flexibility to determine when the disclosure of a newly assigned SSN is less disruptive to households and most beneficial to the administration of the housing assistance—which HUD maintains is appropriate.

Comment: Clarify consequences to households if one member of household does not comply with SSN requirements. One commenter asked HUD to clarify, at the final rule stage, if an entire household loses its tenancy if one member of the household does not comply with SSN requirements.

HUD Response: Subject to the exemptions allowed, an entire household may lose its tenancy if one member of the household does not comply with the SSN disclosure requirements. HUD has taken the opportunity afforded by this final rule to clarify this issue in the regulatory text. Specifically, § 5.218(c), regarding the termination of assistance and tenancy, has been revised to clarify that the "participant and the participant's household" are subject to termination for failure to comply with the SSN requirements. As noted earlier in this preamble, the possibility that an entire household may lose its tenancy if one member of the household does not comply with the SSN disclosure requirements was part of HUD's January 27, 2009, final rule (74 FR 4832), and was not proposed to be changed by HUD's October 15, 2009, proposed rule. (Please see HUD's response to a comment about loss of tenancy by a household that was provided in the January 27, 2009, final rule at 74 FR 4833, third column.)

2. Comments Regarding Individuals Who Do Not Contend Eligible Immigration Status

Comment: Such individuals should not be exempt from SSN disclosure requirements. One commenter objected to the inapplicability of the SSN disclosure requirements to persons who do not contend legal immigration status. The commenter stated that such exception unjustly requires United States citizens to undergo more stringent verification procedures than

individuals who lack the legal right to reside in the U.S. The commenter suggested that the final rule provide a comprehensive list of documents that will be used to verify citizenship.

HUD Response: The commenter is incorrect in asserting that the exception to the SSN requirements protects individuals who lack the legal right to reside in the U.S. The exception applies solely to individuals who do not contend legal immigration status (that is, the legal immigration status required by the Housing and Community Development Act of 1980, 42 U.S.C. 1436a)[2]), and therefore are ineligible for HUD housing assistance. Individuals who do not contend legal immigration status may include persons lawfully residing in the U.S.; for example, persons for whom entry was provided on student or work visas, but who do not meet the legal residency categories of the Housing and Community Development Act of 1980. Individuals who do not contend legal immigration status for HUD subsidized housing may reside in HUD subsidized housing only as members of a family who contend and are confirmed to be U.S. citizens or have the legal immigration status required by the Housing and Community Development Act of 1980.

HUD is not revising the rule in response to the request to provide a comprehensive list of documents to verify citizenship. This final rule is solely directed at full implementation of EIV, and is not directed to revising or updating HUD's noncitizens regulations. Although the January Final Rule would have made several revisions to the documentation requirements in HUD's noncitizens regulations, those amendments were found to be extraneous and consequently distracting to HUD's goal of full EIV implementation. Given the sensitivity and significance of the issues involved, HUD has withdrawn these amendments, leaving in place the noncitizens requirements as codified prior to revision by the January Final Rule. Any changes to HUD's noncitizen regulations are more appropriately undertaken by separate rulemaking that focuses exclusively on these policies and providing the public with additional opportunity to comment.

Comment: Exempt individuals not contending eligible immigration status from the penalties authorized by § 5.218. One commenter stated that the penalties of § 5.218 (Penalties for failing to disclose and verify Social Security and Employer Identification numbers) should be inapplicable to applicants and participants who do not contend eligible immigration status under 24 CFR part 5, subpart E.

HUD Response: Since individuals who do not contend eligible immigration status under subpart E are exempt from the requirement to disclose a SSN, HUD believes it is clear that the penalties for failure to disclose a SSN are not applicable to any individual for whom an exemption applies.

Comment: Clarify treatment of the Certificate of Naturalization. One commenter asked HUD why, given the protections provided by EIV, does the Certificate of Naturalization say "Do Not Copy." The commenter stated, "With the added security EIV now provides by matching identity with the SSA, it seems odd that we now also need to increase our precautions as well."

HUD Response: Whenever the issue of information pertaining to personal identity is involved, HUD believes that all measures directed to maintaining confidentiality should be followed.

3. Comments Regarding the "Grandfathering" of Elderly Participants

Comment: The provision regarding the "grandfathering" of seniors is contradictory. One commenter asked that HUD's final rule clarify whether seniors, 62 years of age or older, residing in HUD subsidized housing as of January 31, 2010, are exempt from the requirements. Another commenter stated that the seniors exemption that HUD provides in the rule should be continued beyond January 31, 2010, and that, in fact, HUD could not set a cut-off date of January 31, 2010, for the seniors exemption because the Housing and Community Development Act of 1980 at 42 U.S.C. 1436a(d)(1)–(2) allows seniors to self-certify. Another commenter stated that § 5.216(e), which addresses the "grandfathering" of persons age 62 and older with respect to disclosure of SSNs, is contradictory, in that it states that current participants age 62 and older are not required to disclose SSNs, but then states that only those individuals who have previously disclosed a valid SSN are exempted from the disclosure requirements.

HUD Response: The exemption for seniors provided by the rule is applicable only to participants who are 62 years of age or older on January 31, 2010. Individuals reaching the age of 62 years after January 31, 2010, will be subject to the SSN disclosure requirements. With respect to the commenter who suggested that HUD was statutorily prohibited from requiring a senior to disclose a SSN, the statute to which HUD refers is the Housing and Community Development Act of 1980, which governs housing assistance for immigrants. The provision to which the commenter specifically refers allows individuals not claiming legal immigration status for housing assistance to not declare eligibility for this assistance. This provision is already reflected in HUD's regulations. With respect to the final issue raised by the third commenter, the commenter incorrectly reads § 5.216(e). As proposed in the October 15, 2009, rule, this final rule exempts current program participants who are 62 years of age or older as of January 31, 2010, from having to disclose a SSN. The exception applies whether or not the participant has previously disclosed a SSN. Section 5.216 (e)(1)(i) explicitly provides that the SSN disclosure requirements apply to "[e]ach participant, *except those age 62 or older as of January 31, 2010*" (emphasis added). Section 5.216(e) then provides an additional exemption for current participants, regardless of age, who previously have disclosed a valid SSN. These individuals are also excused from having to re-provide their SSN for duplicative verification.

Comment: All seniors—whether current participants or applicants—should be exempted from SSN disclosure. Three commenters suggested that HUD expand the exemption for seniors 62 years of age and older to include applicants, as well as current program participants. The commenters stated that the potential burdens of producing a SSN, which HUD seeks to alleviate through the exemption for senior participants, are also faced by older applicants. One commenter suggested that a senior applying after January 31, 2010, be allowed to provide a SSN without documentary proof, so long as the senior signs a statement that the number is valid and that the senior understands that EIV will be used to verify the accuracy of the number. The commenter suggested that the applicant should be allowed to retain his or her place on the waiting list but not become a participant until the SSN verification procedures are met.

HUD Response: HUD believes that an exception is justified for persons age 62 or older on January 31, 2010, who are currently residing in assisted housing, because of the potential burdens faced by the elderly in providing a SSN, the small number of seniors who would qualify for the exception, and the fact that many of these senior citizens have resided in their units for years in compliance with all other program requirements. However, HUD remains of the position that all new applicants,

[2] The Housing and Community Development Act of 1980 lists the categories of resident immigrants that are eligible to receive HUD housing assistance.

regardless of age, must meet the SSN disclosure requirements.

Comment: Objection to the senior exemption. One commenter questioned the need for the exemption proposed by HUD for seniors 62 years of age or older. The commenter stated that processing entities will have difficulty administering exceptions to the SSN disclosure requirements, and suggested that all individuals, other than those not contending legal immigration status, should be required to provide a SSN. This commenter suggested that seniors should be granted the same flexibility proposed for children under 6 years of age, that is, a 90-day period in which to produce the SSN. This commenter also suggested that, if the exemption for persons 62 years of age or older remains in the final rule, seniors should not be included in the EIV reconciliation reports that HUD provides to processing entities identifying participants who have not complied with the SSN disclosure requirements.

HUD Response: HUD has carefully limited the scope of the exceptions to the SSN disclosure and verification requirements. The exception to which the commenter objects is narrowly tailored to avoid the eviction of elderly persons who already reside in assisted housing and who are in compliance with all other program requirements. HUD believes the narrow exemption for seniors is merited given the potentially harsh results should these persons be subject to the SSN requirements and the burdens that may be experienced by seniors in trying to produce a SSN. The commenter, however, raises a good point with regard to the omission of elderly participants from the EIV reconciliation reports. Although it currently is not possible to omit these individuals given the current design of the EIV system, HUD will take the suggestion made by the commenter under advisement.

Comment: Clarification of senior exemption. One commenter requested clarification on whether senior participants processed on or after January 31, 2010, will need to produce a valid SSN. Another commenter asks whether "grandfathering" applies if the senior moves from one HUD-assisted property to another. The commenter stated that a senior may need to move to different housing for good reasons, such as the presence of a disability, the senior has another type of verified medical condition, the senior becomes the victim of abuse, or the senior requires the assistance of a live-in aide and hence a larger unit. In these cases, the senior should continue to receive HUD assistance so long as proper verification is performed.

HUD Response: The exception for senior participants is based on a two-prong test: (1) the participant must be 62 years of age or older on January 31, 2010; and (2) the person's initial determination of eligibility must have begun before that date. A participant who fails either prong is subject to the SSN disclosure requirements. A participant who satisfies both prongs is exempt from the SSN requirements for all future income examinations, even if the senior moves to a new HUD-assisted property. HUD has taken the opportunity afforded by this final rule to clarify this point. Specifically, the regulatory text no longer provides that the initial determination of eligibility is "under the program involved." The inclusion of this phrase might mistakenly have been interpreted to mean that elderly participants "lose" the exemption when moving to a new unit.

4. Comments Regarding the Addition of New Household Members

Commenter: Question regarding addition of new household member who is at least 6 years of age. One commenter asked whether new household members over 6 years of age must disclose a SSN before they are added to the lease or before the household is placed on the waiting list, or whether the new household member may move in and then be given 90 days to produce a SSN. If households are allowed on the waiting list prior to SSN disclosure, how long may the household remain on the list without all of the members having disclosed a valid SSN?

HUD Response: The provisions for adding a new household member apply solely to households already receiving housing assistance and, therefore, would not affect placement on a waiting list. The final rule, at § 5.216(e)(2)(i), provides that the new household member must disclose a SSN upon the request of the processing entity, and no later than the time of processing the interim reexamination or recertification of family composition that includes the new member.

Comment: Omission of children under 6 years of age who already have a SSN. One commenter stated that the provisions regarding the addition of new household members at § 5.216(e)(2) seems to inadvertently omit disclosure requirements pertaining to children under 6 years of age who already have a SSN. Another commenter asked, in the case of a new household with members under 6 years of age or an existing household who adds a member under 6 years of age, who has 90 days to produce an SSN for the child, what happens after the end of the time period and any extension? The commenter asked if assistance is terminated, and, if so, when is the termination effective? Should the household begin paying market rent as of the month following the 90-day extension? Is there a different rule for Project Rental Assistance Contract (PRAC) properties?

HUD Response: HUD's rule provides that the 90-day period for the disclosure of a SSN applies solely to new household members under the age of 6 who do not already have a SSN (see § 5.216(e)(2)(ii)(A)). New household members under the age of 6 who have a SSN are subject to the same disclosure requirements as new household members at least 6 years of age and must disclose the SSN upon the earlier of: (1) the request of the processing entity; or (2) the interim reexamination or recertification of family composition that includes the new member. To enhance clarity, HUD has revised the language of § 5.216(e)(2) to explicitly make this point.

Comment: Suggested change to SSN disclosure requirements for new household members under the age of 6. One commenter suggested that to avoid having to conduct multiple reexaminations to add a child to the household, the final rule should allow a processing entity to add a child with another identification number, but not require the SSN until the next regularly scheduled reexamination, or no later than 15 months after the child is added to the household.

HUD Response: HUD has not revised the rule in response to this comment. HUD remains of the position that the provisions regarding the addition of children under the age of 6 to the household strike the appropriate balance between mitigating the potential burden faced by a family in obtaining a new SSN for a child, minimizing the burden on processing entities, and assuring the integrity of the EIV process. Processing entities will still be able to use HUD systems to generate an alternate identification number to facilitate reporting of the new household member under the age of 6 on the form HUD–50058 or HUD–50059. However, the alternate identification number must be replaced with a SSN, within 90 calendar days (or approved 90-day extension) of the child being added to the household.

5. Comments Regarding Waiting List Placement and Termination of Assistance

Comment: Households that fail to comply with SSN requirements should be removed from waiting list. One commenter suggested that applicants who do not disclose their SSNs should be able to remain on the waiting list for 90 days, with one 90-day extension, rather than indefinitely.

HUD Response: HUD has not revised the rule in response to this comment. A household on the waiting list will not be provided housing assistance until such time as all household members disclose a valid SSN. Moreover, placement on the waiting list merely serves to reserve a place in the program for the household, but does not necessarily deny or delay housing assistance to other households. Depending on the policies of the processing entity governing placement on the waiting list, an applicant household that is lower on the waiting list, but that is able to comply with the SSN requirements, may be eligible to move ahead of a family that is unable to comply with the SSN requirements at the time assistance becomes available, and thus be provided housing assistance. HUD will issue administrative guidance on how long a processing entity may keep an applicant family that is noncompliant with the SSN disclosure requirement on the waiting list.

Comment: Question regarding scope of termination. Two commenters stated that § 5.218(c)(3) should be clarified regarding whether the failure of a member of a household to disclose a SSN would result in the loss of tenancy for the entire household or only the member who failed to disclose the SSN. One of the commenters stated that if the result was the loss of tenancy for the entire family it would violate the due process cause of the 14th Amendment by violating the right of families to live together, as recognized in *Moore* v. *East Cleveland,* 431 U.S. 494 (1977) and *Yolano-Donnelly* v. *Cisneros,* No. S–86–846 (E.D. Cal., March 8, 1996).

HUD Response: HUD believes that its regulations are clear that housing assistance may not be provided on behalf of a household that contains a member who fails to comply with the SSN disclosure and verification requirements. Contrary to the commenter's statement that denial of assistance would result in forced separation of family members, the result is that denial of assistance precludes HUD housing assistance as a housing option, but does not result in forced separation of family members.

C. Comments Regarding Definition of Annual Income

Comment: Use of historical income. Although the October 15, 2009, proposed rule withdrew the January Final Rule amendments to the definition of annual income codified at § 5.609, one commenter registered disapproval with the January Final Rule amendments regarding the use of historical amounts in determining annual income. The commenter recommended that income should continue to be defined as anticipated income for the 12-month period following move-in or certification. The commenter stated that the use of historical income might lead to the granting of housing assistance to individuals who do not need it, and increase the administrative burden on processing entities due to the greater discretion allowed.

HUD Response: The recommendation made by the commenter is reflected in this final rule. As part of the October 15, 2009, proposed amendments, HUD withdrew the January Final Rule amendments pertaining to the definition of annual income. Accordingly, the content of the annual income provision at § 5.609 remains as it was prior to amendment by the January Final Rule.

Comment: HUD should address annual income determinations for seasonal or cyclical workers. One commenter urged HUD to quickly address the method of calculating rent for seasonal workers and those participants who habitually lose income prior to annual recertifications. The commenter wrote that there is insufficient guidance on this topic.

HUD Response: HUD understands the concern expressed by the commenter and, as stated in the preamble to the October 15, 2009, proposed rule, issues concerning calculation of rent are more appropriate for a rule for which that subject is the focus. The focus of this rule is full implementation of the EIV system.

D. Comments Regarding Proposed Amendment to 24 CFR part 908

Comment: Record retention requirement. Two commenters expressed concern regarding the proposed conforming change to the part 908 requirements. (HUD's regulations at 24 CFR part 908 codify the requirements regarding the electronic submission of required family data for certain assisted housing programs.) The commenters expressed concern with the proposed requirement that supporting documentation be retained along with the form HUD–50058, for 3 years after a household ends its participation. One commenter questioned whether the Code of Federal Regulations is the appropriate place to mandate records retention requirements. The other commenter was concerned about confidentiality issues that may result from maintaining hard copies of the forms for a period of 3 years after a household ends its participation, and asked whether electronic retention of the information would meet the record retention requirement.

HUD Response: The record retention requirements provided by this rule will assist HUD's monitoring of EIV implementation. The Code of Federal Regulations contains binding agency requirements, including agency information collection and recordkeeping requirements. HUD notes that the part 908 regulations were promulgated in 1995 and have been in effect for over a decade. With respect to the question concerning electronic retention of the forms, the proposed regulatory text made final by today's rule explicitly provides that "[e]lectronic retention of form HUD–50058 and HUD–50058–FSS, and supporting documentation fulfills the retention requirement under this section" (see § 908.101).

V. Findings and Certifications

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this final rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this final rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order).

The Final Rule was determined an economically significant rule based on its mandate that the EIV system be used by all processing entities. The narrowly tailored regulatory amendments made by this final rule do not modify the economic impact of mandatory EIV use, and neither add or revise the EIV requirements of the Final Rule. These regulatory amendments are limited to addressing certain provisions of the Final Rule that caused confusion and that were extraneous to full implementation of EIV. The clarifications made by this rule do not result in an impact on the economy of $100 million or more.

The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development,

451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339.

Paperwork Reduction Act

The information collection requirements in this final rule have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Numbers 2577–0220 and 2502–0204. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB Control Number.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As an initial matter, HUD notes that this final rule builds upon the January Final Rule, which the Department determined did not have a significant economic impact on a substantial number of small entities. This scope of this final rule is much more narrowly focused than that of the January Final Rule, and its potential economic impacts are correspondingly reduced. As noted, this final rule is concerned exclusively with the full and successful implementation of the EIV system. The regulatory amendments made by this final rule are few and limited to clarifying certain provisions of the January Final Rule and returning other regulatory provisions extraneous to EIV implementation to their pre-January 2009 final rule content. The final rule does not alter the economic impact of full EIV implementation, and neither adds to or modifies the EIV requirements of the January Final Rule. To the extent this final rule has any economic impact, it is to reduce the costs and regulatory burdens imposed on processing entities by withdrawing the January Final Rule amendments to HUD's annual income requirements and the regulations governing housing assistance to noncitizens.

Accordingly, this final rule does not alter the small entity impact analysis made in the January Final Rule nor does this final rule, which makes certain clarifying amendments, result in a significant economic impact on a substantial number of small entities.

Environmental Impact

This final rule involves external administrative or fiscal requirements or procedures related to income limits and exclusions with regard to eligibility for or calculation of HUD housing assistance or rental assistance that do not constitute a development decision affecting the physical condition of specific project areas or building sites. In addition, part of this rule involves operating instructions and procedures in connection with activities under **Federal Register** documents that previously have been subject to a required environmental review. Accordingly, under 24 CFR 50.19(c)(6) and 50.19(c)(4), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This final rule does not impose any federal mandate on any state, local, or tribal government, or on the private sector, within the meaning of the UMRA.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Crime, Government contracts, Grant programs—housing and community development, Individuals with disabilities, Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

24 CFR Part 908

Computer technology, Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons described in the preamble, HUD amends 24 CFR parts 5 and 908, as amended in the final rule published on January 27, 2009, at 74 FR 4832, as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

■ 1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, 3535(d), and Sec. 327, Pub. L. 109–115, 119 Stat. 2936.

■ 2. Revise § 5.216 to read as follows:

§ 5.216 Disclosure and verification of Social Security and Employer Identification Numbers.

(a) *General.* The requirements of this section apply to applicants and participants as described in this section, except that this section is inapplicable to individuals who do not contend eligible immigration status under subpart E of this part (see § 5.508).

(b) *Disclosure required of assistance applicants.* Each assistance applicant must submit the following information to the processing entity when the assistance applicant's eligibility under the program involved is being determined.

(1) The complete and accurate SSN assigned to the assistance applicant and to each member of the assistance applicant's household; and

(2) The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.

(c) *Disclosure required of individual owner applicants.* Each individual owner applicant must submit the following information to the processing entity when the individual owner applicant's eligibility under the program involved is being determined:

(1) The complete and accurate SSN assigned to the individual owner applicant and to each member of the individual owner applicant's household

who will be obligated to pay the debt evidenced by the mortgage or loan documents; and

(2) The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.

(d) *Disclosure required of certain officials of entity applicants.* Each officer, director, principal stockholder, or other official of an entity applicant must submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

(1) The complete and accurate SSN assigned to each such individual; and

(2) The documentation referred to in paragraph (g)(1) of this section to verify each SSN.

(e) *Disclosure required of participants*—(1) *Initial disclosure.* (i) Each participant, except those age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, must submit the information described in paragraph (e)(1)(ii) of this section, if the participant has:

(A) Not previously disclosed a SSN;

(B) Previously disclosed a SSN that HUD or the SSA determined was invalid; or

(C) Been issued a new SSN.

(ii) Each participant subject to the disclosure requirements under paragraph (e)(1)(i) of this section must submit the following information to the processing entity at the next interim or regularly scheduled reexamination or recertification of family composition or income, or other reexamination or recertification for the program involved:

(A) The complete and accurate SSN assigned to the participant and to each member of the participant's household; and

(B) The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.

(2) *Subsequent disclosure.* Once a participant has disclosed and the processing entity has verified each SSN, the following rules apply:

(i) *Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN.* When the participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide the following to the processing entity at the time of the request, or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s):

(A) The complete and accurate SSN assigned to each new member; and

(B) The documentation referred to in paragraph (g)(1) of this section to verify the SSN for each new member.

(ii) *Addition of new household member who is under the age of 6 and has no assigned SSN.* (A) When a participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child and the documentation referred to in paragraph (g)(1) of this section to verify the SSN for each new child within 90 calendar days of the child being added to the household.

(B) The processing entity shall grant an extension of one additional 90-day period if the processing entity, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant. During the period that the processing entity is awaiting documentation of a SSN, the processing entity shall include the child as part of the assisted household and the child shall be entitled to all the benefits of being a household member. If, upon expiration of the provided time period, the participant fails to produce a SSN, the processing entity shall follow the provisions of § 5.218.

(iii) *Assignment of new SSN.* If the participant or any member of the participant's household has been assigned a new SSN, the participant must submit the following to the processing entity at either the time of receipt of the new SSN; at the next interim or regularly scheduled reexamination or recertification of family composition or income, or other reexamination or recertification; or at such earlier time specified by the processing entity:

(A) The complete and accurate SSN assigned to the participant or household member involved; and

(B) The documentation referred to in paragraph (g)(1) of this section to verify the SSN of each individual.

(f) *Disclosure required of entity applicants.* Each entity applicant must submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

(1) Any complete and accurate EIN assigned to the entity applicant; and

(2) The documentation referred to in paragraph (g)(2) of this section to verify the EIN.

(g) *Required documentation*—(1) *SSN.* The documentation necessary to verify the SSN of an individual who is required to disclose his or her SSN under paragraphs (a) through (e) of this section is:

(i) A valid SSN card issued by the SSA;

(ii) An original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual, along with other identifying information of the individual; or

(ii) Such other evidence of the SSN as HUD may prescribe in administrative instructions.

(2) *EIN.* The documentation necessary to verify an EIN of an entity applicant that is required to disclose its EIN under paragraph (f) of this section is the official, written communication from the Internal Revenue Service (IRS) assigning the EIN to the entity applicant, or such other evidence of the EIN as HUD may prescribe in administrative instructions.

(h) *Effect on assistance applicants.* (1) Except as provided in paragraph (h)(2) of this section, if the processing entity determines that the assistance applicant is otherwise eligible to participate in a program, the assistance applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide:

(i) The complete and accurate SSN assigned to each member of the household; and

(ii) The documentation referred to in paragraph (g)(1) of this section to verify the SSN of each such member.

(2) For applicants to the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals under 24 CFR part 882, subpart H, the documentation required in paragraph (h)(1) of this section must be provided to the processing entity within 90 calendar days from the date of admission into the program. The processing entity shall grant an extension of one additional 90-day period if the processing entity, in its discretion, determines that the applicant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the applicant. If, upon expiration of the provided time period, the individual fails to produce a SSN, the processing entity shall follow the provisions of § 5.218.

(i) *Rejection of documentation.* The processing entity must not reject documentation referred to in paragraph (g) of this section, except as HUD may otherwise prescribe through publicly issued notice.

■ 3. Amend § 5.218 by revising paragraphs (a), (b) and (c) to read as follows:

Enclosure B

Instructions for Getting Access to the EIV System

§ 5.218 Penalties for failing to disclose and verify Social Security and Employer Identification Numbers.

(a) *Denial of eligibility of assistance applicants and individual owner applicants.* The processing entity must deny the eligibility of an assistance applicant or individual owner applicant in accordance with the provisions governing the program involved, if the assistance or individual owner applicant does not meet the applicable SSN disclosure, documentation, and verification requirements as specified in § 5.216.

(b) *Denial of eligibility of entity applicants.* The processing entity must deny the eligibility of an entity applicant in accordance with the provisions governing the program involved; if:

(1) The entity applicant does not meet the EIN disclosure, documentation, and verification requirements specified in § 5.216; or

(2) Any of the officials of the entity applicant referred to in § 5.216(d) does not meet the applicable SSN disclosure, and documentation and verification requirements specified in § 5.216.

(c) *Termination of assistance or termination of tenancy of participants.* (1) The processing entity must terminate the assistance or terminate the tenancy, or both, of a participant and the participant's household, in accordance with the provisions governing the program involved, if the participant does not meet the applicable SSN disclosure, documentation, and verification requirements specified in § 5.216.

(2) The processing entity may defer termination and provide the participant with an additional 90 calendar days to disclose a SSN, but only if the processing entity, in its discretion, determines that:

(i) The failure to meet these requirements was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant; and

(ii) There is a reasonable likelihood that the participant will be able to disclose a SSN by the deadline.

(3) Failure of the participant to disclose a SSN by the deadline specified in paragraph (c)(2) of this section will result in termination of the assistance or tenancy, or both, of the participant and the participant's household.

* * * * *

■ 4. Add a new § 5.233 to read as follows:

§ 5.233 Mandated use of HUD's Enterprise Income Verification (EIV) System.

(a) *Programs subject to this section and requirements.* (1) The requirements of this section apply to entities administering assistance under the:

(i) Public Housing program under 24 CFR part 960;

(ii) Section 8 Housing Choice Voucher (HCV) program under 24 CFR part 982;

(iii) Moderate Rehabilitation program under 24 CFR part 882;

(iv) Project-based Voucher program under 24 CFR part 983;

(v) Project-based Section 8 programs under 24 CFR parts 880, 881, 883, 884, 886, and 891;

(vi) Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(vii) Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

(viii) Sections 221(d)(3) and 236 of the National Housing Act (12 U.S.C. 1715l(d)(3) and 1715z–1); and

(ix) Rent Supplement program under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

(2) Processing entities must use HUD's EIV system in its entirety:

(i) As a third party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income, in accordance with § 5.236, and administrative guidance issued by HUD; and

(ii) To reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

(b) *Penalties for noncompliance.* Failure to use the EIV system in its entirety may result in the imposition of sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculations, or both.

§ 5.236 [Amended]

■ 5. In § 5.236(b)(3)(i)(A), remove "215".

PART 908—ELECTRONIC TRANSMISSION OF REQUIRED FAMILY DATA FOR PUBLIC HOUSING, INDIAN HOUSING, AND THE SECTION 8 RENTAL CERTIFICATE, RENTAL VOUCHER, AND MODERATE REHABILITATION PROGRAMS

■ 6. The authority citation for part 908 continues to read as follows:

Authority: 42 U.S.C. 1437f, 3535d, 3543, 3544, and 3608a.

■ 7. Revise § 908.101 to read as follows:

§ 908.101 Purpose.

The purpose of this part is to require Public Housing Agencies (PHAs), including Moving-to-Work (MTW) PHAs, that operate Public Housing, Indian Housing, or Section 8 Rental Certificate, Housing Choice Voucher (HCV), Rental Voucher, and Moderate Rehabilitation programs to electronically submit certain data to HUD for those programs. These electronically submitted data are required for HUD forms: HUD–50058, including the Family Self-Sufficiency (FSS) Addendum. Applicable program entities must retain at a minimum, the last three years of the form HUD–50058, and supporting documentation, during the term of each assisted lease, and for a period of at least 3 years from the end of participation (EOP) date, to support billings to HUD and to permit an effective audit. Electronic retention of form HUD–50058 and HUD–50058–FSS and supporting documentation fulfills the record retention requirement under this section.

Dated: December 21, 2009.

Shaun Donovan,

Secretary.

[FR Doc. E9–30720 Filed 12–28–09; 8:45 am]

BILLING CODE 4210–67–P

Enclosure C-1

SSN Flyer for Applicants

Instructions for Getting Access to the EIV System

Step 1: Determine EIV Role

When applying for initial EIV access rights, applicants must first decide what their role will be in EIV; whether they will be an EIV Coordinator (HSC) or an EIV User (HSU), as the application process is different depending on their role. An EIV Coordinator has the same functionality in EIV as an EIV User but also has the administrative functions of assigning access rights to EIV Users and recertifying their EIV Users on a biannual basis.

Step 2: Application Process for Coordinators

When applying for EIV access rights as an EIV Coordinator (HSC), an applicant must:

1. Be a WASS Coordinator and have an active WASS ID (M-ID) that was assigned to them by HUD, based on owner authorization;
2. Have a written owner authorization (letter of approval) to access EIV on the owner's behalf for their property(ies);
3. Complete and submit a hardcopy Coordinator Access Authorization Form (CAAF) to HUD's Multifamily Helpdesk by fax at 202-401-7984 or by email at MF_eiv@hud.gov. You need only fax pages 1, 2, and 5 of the CAAF. Do not fax the owner letters of approval with your request. Note, only one CAAF needs to be submitted per Coordinator. A separate CAAF should not be submitted for each property.
4. Complete property assignments in EIV after receiving an approval email from the Helpdesk; and
5. Complete the EIV on-line certification process.

Step 3: Application Process for EIV Users

Users must have an active WASS ID (M-ID) in order to apply for access authorization rights to EIV. To apply for EIV access, Users will need to complete the User Access Authorization Form (UAAF) in hardcopy and submit it to their assigned EIV Coordinator for approval. The EIV Coordinator can approve and certify the EIV User and make the appropriate property assignments. UAAFs are **not** to be faxed to the Multifamily Helpdesk.

Detailed instructions for the application process which include how to apply for a WASS ID, upgrade to a WASS Coordinator role (necessary if applying as a Coordinator) and application forms for EIV Coordinators and EIV Users are located at: http://www.hud.gov/offices/hsg/mfh/rhiip/eiv/applyforeivaccess.pdf

If you have any questions related to getting access to EIV, you may contact Kevin Garner on 202-402-2057 or Zeljko Jovanovic on 202-402-3157.

Do you have a Social Security Number (SSN)?

If you do not disclose a SSN, you may not be able to receive housing assistance.

The federal government requires each applicant for HUD-assisted housing to provide documentation of their SSN to the property owner/manager by the time a unit becomes available. This requirement affects household members who are U.S. citizens, U.S. nationals and eligible noncitizens.

? The SSNs of all members of my household have been provided. What do I do?

Nothing further is required. The owner/property manager will contact you if there is a problem with the SSN of any of your household members.

? I have not provided SSNs for all of my household members to the property owner/manager. What do I do?

Does everyone in your household have a SSN?

Yes

1. Ensure the correct SSN for each household member who is a U.S. citizen, U.S. national or eligible noncitizen is reported to the owner/property manager by the time a unit becomes available.
2. You will need to provide the owner/property manager with documentation to verify the SSNs.

No

1. For any household member who is a U.S. citizen, U.S. national or eligible noncitizen and does not have a SSN, apply for a SSN by submitting a completed SS-5 form to the Social Security Administration. For the SS-5 form and/or assistance, contact the owner/property manager.
2. Provide documentation of a SSN for each household member who is a U.S. citizen, U.S. national or eligible noncitizen to the owner/property manager by the time a unit becomes available.

Note: If you turned 62 before January 31, 2010, ask the property manager for further details on what you need to do.

U.S. Department of Housing and Urban Development
Office of Housing

Enclosure C-2

SSN Flyer for Tenants

Have you reported your Social Security Number (SSN)?

Failure to do so may eventually result in the termination of your tenancy.

The federal government now requires all tenants of HUD-assisted properties except those 62 and older as of January 31, 2010, whose initial determination of eligibility for assistance began prior to January 31, 2010, to report their SSN to the owner/property manager at the time of their next regularly scheduled recertification. This requirement affects all U.S. citizens, U.S. nationals and eligible noncitizens.

The SSN for each member of my household has been reported to the property owner/manager. What do I do?

Nothing further is required. The property owner/manager will contact you if there is a problem with the SSN for any member of your household.

I have not provided SSNs for all of my household members to the property owner/manager. What do I do?

Does everyone in your household who is required to have a SSN have one?

Yes

1. Ensure the correct SSN for each household member is reported to the property owner/manager by your next recertification.
2. You will need to provide the owner/property manager with documentation to verify the SSNs.

No

1. Each household member required to have a SSN who does not have one must submit a completed SS-5 form to the Social Security Administration. For a SS-5 form and/or assistance, contact your property owner/manager.
2. Provide documentation of previously unreported or invalid SSNs to the property owner/manager by your next recertification.

U.S. Department of Housing and Urban Development
Office of Housing

Enclosure C-3

SS-5 Application for SSN with Instructions

SOCIAL SECURITY ADMINISTRATION
Application for a Social Security Card

Form Approved
OMB No. 0960-0066

1 NAME TO BE SHOWN ON CARD — First | Full Middle Name | Last

FULL NAME AT BIRTH IF OTHER THAN ABOVE — First | Full Middle Name | Last

OTHER NAMES USED ON YOUR SOCIAL SECURITY CARD

2 Social Security number previously assigned to the person listed in item 1 — – –

3 PLACE OF BIRTH (Do Not Abbreviate) City | State or Foreign Country | Office Use Only FCI

4 DATE OF BIRTH MM/DD/YYYY

5 CITIZENSHIP (Check One) ☐ U.S. Citizen ☐ Legal Alien Allowed To Work ☐ Legal Alien **Not** Allowed To Work (See Instructions On Page 3) ☐ Other (See Instructions On Page 3)

6 ETHNICITY Are You Hispanic or Latino? (Your Response is Voluntary) ☐ Yes ☐ No

7 RACE Select One or More (Your Response is Voluntary) ☐ Native Hawaiian ☐ American Indian ☐ Other Pacific Islander ☐ Alaska Native ☐ Black/African American ☐ White ☐ Asian

8 SEX ☐ Male ☐ Female

9 A. MOTHER'S NAME AT HER BIRTH First | Full Middle Name | Last Name At Her Birth

B. MOTHER'S SOCIAL SECURITY NUMBER (See instructions for 9 B on Page 3) – – ☐ Unknown

10 A. FATHER'S NAME First | Full Middle Name | Last

B. FATHER'S SOCIAL SECURITY NUMBER (See instructions for 10B on Page 3) – – ☐ Unknown

11 Has the person listed in item 1 or anyone acting on his/her behalf ever filed for or received a Social Security number card before?
☐ Yes (If "yes" answer questions 12-13) ☐ No ☐ Don't Know (If "don't know," skip to question 14.)

12 Name shown on the most recent Social Security card issued for the person listed in item 1 — First | Full Middle Name | Last Name

13 Enter any different date of birth if used on an earlier application for a card — MM/DD/YYYY

14 TODAY'S DATE MM/DD/YYYY

15 DAYTIME PHONE NUMBER ( ) – Area Code | Number

16 MAILING ADDRESS (Do Not Abbreviate) Street Address, Apt. No., PO Box, Rural Route No. | City | State/Foreign Country | ZIP Code

I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge.

17 YOUR SIGNATURE

18 YOUR RELATIONSHIP TO THE PERSON IN ITEM 1 IS: ☐ Self ☐ Natural Or Adoptive Parent ☐ Legal Guardian ☐ Other (Specify) _____

DO NOT WRITE BELOW THIS LINE (FOR SSA USE ONLY)

NPN	DOC	NTI	CAN	ITV

PBC	EVI	EVA	EVC	PRA	NWR	DNR	UNIT

EVIDENCE SUBMITTED

SIGNATURE AND TITLE OF EMPLOYEE(S) REVIEWING EVIDENCE AND/OR CONDUCTING INTERVIEW

DATE

DCL DATE

SOCIAL SECURITY ADMINISTRATION
Application for a Social Security Card

Applying for a Social Security Card is free!

USE THIS APPLICATION TO:

- Apply for an original Social Security card
- Apply for a replacement Social Security card
- Change or correct information on your Social Security number record

IMPORTANT: You MUST provide a properly completed application and the required evidence before we can process your application. We can only accept original documents or documents certified by the custodian of the original record. Notarized copies or photocopies which have not been certified by the custodian of the record are not acceptable. We will return any documents submitted with your application. For assistance call us at 1-800-772-1213 or visit our website at www.socialsecurity.gov.

Original Social Security Card

To apply for an original card, you must provide at least two documents to prove age, identity, and U.S. citizenship or current lawful, work-authorized immigration status. If you are not a U.S. citizen and do not have DHS work authorization, you must prove that you have a valid non-work reason for requesting a card. See page 2 for an explanation of acceptable documents.

NOTE: If you are age 12 or older and have never received a Social Security number, you must apply in person.

Replacement Social Security Card

To apply for a replacement card, you must provide one document to prove your identity. If you were born outside the U.S., you must also provide documents to prove your U.S. citizenship or current, lawful, work-authorized status. See page 2 for an explanation of acceptable documents.

Changing Information on Your Social Security Record

To change the information on your Social Security number record (i.e., a name or citizenship change, or corrected date of birth) you must provide documents to prove your identity, support the requested change, and establish the reason for the change. For example, you may provide a birth certificate to show your correct date of birth. A document supporting a name change must be recent and identify you by both your old and new names. If the name change event occurred over two years ago or if the name change document does not have enough information to prove your identity, you must also provide documents to prove your identity in your prior name and/or in some cases your new legal name. If you were born outside the U.S. you must provide a document to prove your U.S. citizenship or current lawful, work-authorized status. See page 2 for an explanation of acceptable documents.

LIMITS ON REPLACEMENT SOCIAL SECURITY CARDS

Public Law 108-458 limits the number of replacement Social Security cards you may receive to 3 per calendar year and 10 in a lifetime. Cards issued to reflect changes to your legal name or changes to a work authorization legend do not count toward these limits. We may also grant exceptions to these limits if you provide evidence from an official source to establish that a Social Security card is required.

IF YOU HAVE ANY QUESTIONS

If you have any questions about this form or about the evidence documents you must provide, please visit our website at www.socialsecurity.gov for additional information as well as locations of our offices and Social Security Card Centers. You may also call Social Security at 1-800-772-1213. You can also find your nearest office or Card Center in your local phone book.

EVIDENCE DOCUMENTS

The following lists are examples of the types of documents you must provide with your application and are not all inclusive. Call us at 1-800-772-1213 if you cannot provide these documents.

IMPORTANT: If you are completing this application on behalf of someone else, you must provide evidence that shows your authority to sign the application as well as documents to prove your identity and the identity of the person for whom you are filing the application. We can only accept original documents or documents certified by the custodian of the original record. Notarized copies or photocopies which have not been certified by the custodian of the record are not acceptable.

Evidence of Age

In general, you must provide your birth certificate. In some situations, we may accept another document that shows your age. Some of the other documents we may accept are:

- U.S. Hospital record of your birth (created at the time of birth)
- Religious record established before age five showing your age or date of birth
- Passport
- Final Adoption Decree (the adoption decree must show that the birth information was taken from the original birth certificate)

Evidence of Identity

You must provide current, unexpired evidence of identity in your legal name. Your legal name will be shown on the Social Security card. Generally, we prefer to see documents issued in the U.S. Documents you submit to establish identity must show your legal name AND provide biographical information (your date of birth, age, or parents' names) **and/or** physical information (photograph, or physical description - height, eye and hair color, etc.). If you send a photo identity document but do not appear in person, the document must show your biographical information (e.g., your date of birth, age, or parents' names). Generally, documents without an expiration date should have been issued within the past two years for adults and within the past four years for children.

As proof of your identity, you must provide a:

- U.S. driver's license; or
- U.S. State-issued non-driver identity card; or
- U.S. passport

If you do not have one of the documents above or cannot get a replacement within 10 work days, we may accept other documents that show your legal name and biographical information, such as a U.S. military identity card, Certificate of Naturalization, employee identity card, certified copy of medical record (clinic, doctor or hospital), health insurance card, Medicaid card, or school identity card/record. For young children, we may accept medical records (clinic, doctor, or hospital) maintained by the medical provider. We may also accept a final adoption decree, or a school identity card or other school record maintained by the school.

If you are not a U.S. citizen, we must see your current U.S. immigration document(s) and your foreign passport with biographical information or photograph.

WE CANNOT ACCEPT A BIRTH CERTIFICATE, HOSPITAL SOUVENIR BIRTH CERTIFICATE, SOCIAL SECURITY CARD STUB OR A SOCIAL SECURITY RECORD as evidence of identity.

Evidence of U.S. Citizenship

In general, you must provide your U.S. birth certificate or U.S. Passport. Other documents you may provide are a Consular Report of Birth, Certificate of Citizenship, or Certificate of Naturalization.

Evidence of Immigration Status

You must provide a current unexpired document issued to you by the Department of Homeland Security (DHS) showing your immigration status, such as Form I-551, I-94, I-688B, or I-766. If you are an international student or exchange visitor, you may need to provide additional documents, such as Form I-20, DS-2019, or a letter authorizing employment from your school and employer (F-1) or sponsor (J-1). We CANNOT accept a receipt showing you applied for the document. If you are not authorized to work in the U.S., we can issue you a Social Security card only if you need the number for a valid non-work reason. Your card will be marked to show you cannot work and if you do work, we will notify DHS. See page 3, item 5 for more information.

HOW TO COMPLETE THIS APPLICATION

Complete and sign this application LEGIBLY using ONLY black or blue ink on the attached or downloaded form using only 8 ½" x 11" (or A4 8.25" x 11.7") paper.

GENERAL: Items on the form are self-explanatory or are discussed below. The numbers match the numbered items on the form. If you are completing this form for someone else, please complete the items as they apply to that person.

4. Show the month, day, and full (4 digit) year of birth; for example, "1998" for year of birth.

5. If you check "Legal Alien Not Allowed to Work" or "Other," you must provide a document from a U.S. Federal, State, or local government agency that explains why you need a Social Security number and that you meet all the requirements for the government benefit. NOTE: Most agencies do not require that you have a Social Security number. Contact us to see if your reason qualifies for a Social Security number.

6., 7. Providing race and ethnicity information is voluntary and is requested for informational and statistical purposes only. Your choice whether to answer or not does not affect decisions we make on your application. If you do provide this information, we will treat it very carefully.

9.B., 10.B. If you are applying for an original Social Security Card for a child under age 18, you MUST show the mother's and father's Social Security numbers unless the mother and/or father was never assigned a Social Security number. If the number is not known and you cannot obtain it, check the "unknown" box.

13. If the date of birth you show in item 4 is different from the date of birth currently shown on your Social Security record, show the date of birth currently shown on your record in item 13 and provide evidence to support the date of birth shown in item 4.

16. Show an address where you can receive your card 7 to 14 days from now.

17. WHO CAN SIGN THE APPLICATION? If you are age 18 or older and are physically and mentally capable of reading and completing the application, you must sign in item 17. If you are under age 18, you may either sign yourself, or a parent or legal guardian may sign for you. If you are over age 18 and cannot sign on your own behalf, a legal guardian, parent, or close relative may generally sign for you. If you cannot sign your name, you should sign with an "X" mark and have two people sign as witnesses in the space beside the mark. Please do not alter your signature by including additional information on the signature line as this may invalidate your application. Call us if you have questions about who may sign your application.

HOW TO SUBMIT THIS APPLICATION

In most cases, you can take or mail this signed application with your documents to any Social Security office. Any documents you mail to us will be returned to you. Go to https://secure.ssa.gov/apps6z/FOLO/fo001.jsp to find the Social Security office or Social Security Card Center that serves your area.

PROTECT YOUR SOCIAL SECURITY NUMBER AND CARD

Protect your SSN card and number from loss and identity theft. DO NOT carry your SSN card with you. Keep it in a secure location and only take it with you when you must show the card; e.g., to obtain a new job, open a new bank account, or to obtain benefits from certain U.S. agencies. Use caution in giving out your Social Security number to others, particularly during phone, mail, email and Internet requests you did not initiate.

PRIVACY ACT STATEMENT
Collection and Use of Personal Information

Sections 205(c) and 702 of the Social Security Act, as amended, authorize us to collect this information. The information you provide will be used to assign you a Social Security number and issue a Social Security card.

The information you furnish on this form is voluntary. However, failure to provide the requested information may prevent us from issuing you a Social Security number and card.

We rarely use the information you supply for any purpose other than for issuing a Social Security number and card. However, we may use it for the administration and integrity of Social Security programs. We may also disclose information to another person or to another agency in accordance with approved routine uses, which include but are not limited to the following:

1. To enable a third party or an agency to assist Social Security in establishing rights to Social Security benefits and/or coverage;

2. To comply with Federal laws requiring the release of information from Social Security records (e.g., to the Government Accountability Office and Department of Veterans' Affairs);

3. To make determinations for eligibility in similar health and income maintenance programs at the Federal, State, and local level; and

4. To facilitate statistical research, audit or investigative activities necessary to assure the integrity of Social Security programs.

We may also use the information you provide in computer matching programs. Matching programs compare our records with records kept by other Federal, State, or local government agencies. Information from these matching programs can be used to establish or verify a person's eligibility for Federally-funded or administered benefit programs and for repayment of payments or delinquent debts under these programs.

Complete lists of routine uses for this information are available in System of Records Notice 60-0058 (Master Files of Social Security Number (SSN) Holders and SSN Applications). The Notice, additional information regarding this form, and information regarding our systems and programs, are available on-line at www.socialsecurity.gov or at any local Social Security office.

This information collection meets the requirements of 44 U.S.C. §3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 8.5 to 9.5 minutes to read the instructions, gather the facts, and answer the questions. You may send comments on our time estimate to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401. **Send only comments relating to our time estimate to this address, not the completed form.**