

### Subpart I—Computer Matching Program Procedures

#### § 317.90 General.

(a) *Scope.* The Privacy Act and this rule are applicable to certain types of computer matching--the computer comparison of automated systems of records.

(b) *Compliance.* Although the Privacy Act provides for specific procedures, the Act is not in itself authority for carrying out any matching activity. Compliance with this chapter does not relieve the agency of the obligation to comply with any other requirements of the Privacy Act and this part.

(c) *Matching programs covered by the Privacy Act.* There are two specific kinds of matching programs that are fully governed by the Privacy Act and this part. These are:

(1) Matches using records from Federal personnel or payroll systems of records. See also definitions of this part.

(2) Matches involving Federal benefit programs to accomplish one or more of the following purposes:

(i) To determine eligibility for a Federal benefit.

(ii) To comply with benefit program requirements.

(iii) To effect recovery of improper payments or delinquent debts from current or former beneficiaries.

(d) *Automated comparisons.* The record comparison must be a computerized comparison, manual comparisons are not covered, involving records from:

(1) Two or more automated systems of records (i.e., systems of records maintained by Federal agencies that are subject to the Privacy Act); or,

(2) An agency's automated system of records and automated records maintained by a non-Federal agency (i.e., state or local government or agent thereof).

(e) *Features of a matching program.* A covered computer matching program entails not only the actual computerized comparison, but also preparing and executing a written agreement between the participants, securing approval of the Defense Data Integrity Board, publishing a matching notice in the FEDERAL REGISTER before the

match begins, ensuring that investigation and due process are completed, and taking ultimate action, if any.

#### § 317.91 Federal personnel or payroll record matches.

(a) *Scope.* These computer matching programs include matches comparing records from agency automated Federal personnel or payroll systems of records with such automated like records of another Federal agency; or with a non-Federal agency. It also includes matches between DoD components or within the agency itself (internal matches).

(b) *Computerized comparisons.* The matching must be done using a computer. Manual comparisons are not covered.

(c) *Exclusion.* Matches must be done for other than "routine administrative purposes."

(d) *Internal matches.* In some instances, a covered match may take place within the agency or with another DoD component. For example, the agency may wish to determine whether any of its own personnel, participating in a benefit program administered by the Department of Defense, are not complying with the program's eligibility requirements. This internal match will certainly result in an adverse action if ineligibility is discovered. Therefore, it is covered by the requirements of the Privacy Act. The agency should not attempt to avoid the reach of the Act, for example, by improperly combining dissimilar systems into a single system, matching data within that system to make an eligibility determination, and arguing that the match is not covered because only one system of records is involved.

(e) *Categories of record subjects.* The categories of individuals whose records are used in this type of matching program must be carefully analyzed before making a determination whether a proposed match is covered. All information on subjects of record is maintained in the agency's system of records, but matching under the particular programs covered by this subsection is limited to "Federal personnel." For matching purposes, a Federal personnel system of records should