



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

April 21, 2026

Regulations Division, Office of General Counsel  
Department of Housing and Urban Development  
451 7th Street SW, Room 10276  
Washington, DC 20410-0500

**Re: Comment on Proposed Rule, “Housing and Community Development Act of 1980: Verification of Eligible Status” [Docket No. FR-6524-P-01]**

My name is Donald Sherman and I am the President of Citizens for Responsibility and Ethics in Washington (“CREW”), a good-government nonprofit that advocates for ethics and transparency in government. Prior to working at CREW, I previously served as the Chief of Staff and Senior Counsel for Oversight and Investigations in the Office of General Counsel at the Department of Housing and Urban Development (“HUD”), as well as a number of oversight roles on congressional committees in the House and Senate. I submit this comment on behalf of CREW in response to the rule proposed by HUD titled “Housing and Community Development Act of 1980: Verification of Eligible Status.” 91 Fed. Reg. 8151 (Feb. 20, 2026) (to be codified at 24 C.F.R. 5.216 and 25 C.F.R. pt. 5, subpart E).

The procedures described in the new proposed rule present an unacceptable risk that HUD will illegally deny housing benefits to numerous Americans contrary to the intent of Congress and undermine the protection of people’s sensitive information, and that both of these failures will be due to systemic issues that are entirely foreseeable. The proposed rule would require new applicants and current recipients of HUD’s housing assistance programs to sign a “verification consent form” allowing the Department of Homeland Security (“DHS”) to verify their U.S. citizenship or eligible immigration status through the Systematic Alien Verification for Entitlements (“SAVE”) system. *Id.* at 8155. For each individual seeking benefits, a project or housing owner would submit a first name, last name, date of birth, and government-issued numeric identifier such as a Social Security number (“SSN”) to SAVE. *Id.* at 8158. If SAVE could not verify the individual’s citizenship or eligible immigration status, the individual would be asked to provide additional documentation. Depending on the type of documentation submitted, the project or housing owner would either resubmit the individual’s information to SAVE or manually review the documents. *Id.* at 8158-59. If the project or housing owner still could not confirm citizenship or eligible immigration status, HUD would deny or terminate assistance. *Id.* at 8159-60. In sum, the rule proposes to make the SAVE system HUD’s primary tool for verifying the eligibility of its beneficiaries.

Since September 2025, CREW has represented The League of Women Voters (“LWV”), several LWV state chapters, and the Electronic Privacy Information Center in litigation against DHS regarding states’ use of SAVE to conduct mass voter verification checks. *League*

of *Women Voters v. DHS*, No. 25-cv-3501 (D.D.C. filed Sept. 30, 2025). In the course of the litigation, CREW has worked to understand DHS's recent changes to SAVE, how it currently operates, and how it could be used in the future. This research has left CREW with serious concerns about the continued and expanded use of the SAVE system.

In the past year, DHS has overhauled SAVE without authority and in violation of several federal laws, including the Social Security Act, the Privacy Act, and the Administrative Procedure Act. DHS has absorbed other federal agencies' data into SAVE without regard to whether the data is complete, accurate, or consistent with its own records. In the voting context, states' use of the SAVE system has already led to the disenfranchisement of eligible voters. The SAVE system, in its current form, is both illegal and unreliable. HUD should not implement a rule that rests on such a dubious foundation.

Furthermore, HUD has a well documented history of challenges regarding the protection of the public's personally identifiable information ("PII") that it accesses.

**I. In 2025, DHS drastically changed the SAVE system without statutory authority.**

**A. In 2025, DHS transformed the previously limited SAVE system into a national citizenship database.**

Before 2025, the SAVE system was different in three critical respects. First, it did not permit queries of U.S.-born citizens.<sup>1</sup> It required users to provide an individual's DHS numeric identifier, such as an alien registration number or "A-Number."<sup>2</sup> Most U.S.-born citizens do not have DHS numeric identifiers, meaning SAVE could not query most U.S. citizens' records.<sup>3</sup> Second, it only accessed records stored in DHS systems, along with immigration-related records systems at the State Department and the Department of Justice.<sup>4</sup> It did not allow users to access Social Security Administration ("SSA") records, or search an individual's SSN.<sup>5</sup> Third, SAVE searches could only be conducted on an individualized basis.<sup>6</sup>

In 2025, DHS made three major changes to the SAVE system. Most critically, it added a massive amount of new data. On May 15, 2025, DHS executed an agreement with the Social Security Administration ("SSA") to link SAVE to the SSA's "Master Files" (also known as NUMIDENT).<sup>7</sup> After the agreement, SAVE could query all the information contained in the SSA Master Files, including SSNs, other identifying numbers, names, dates and places of birth, citizenship indicators, and other information<sup>8</sup> about more than 300 million

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<sup>1</sup> Privacy Act of 1974; System of Records, 85 Fed. Reg. 31798, 31801 (May 27, 2020) ("2020 SAVE SORN").

<sup>2</sup> DHS, *Privacy Threshold Analysis for the SAVE Program*, at 5 (July 17, 2025), <https://perma.cc/9AXY-WCLU> ("July 2025 SAVE PTA").

<sup>3</sup> *Id.*

<sup>4</sup> 2020 SAVE SORN, *supra* n.1 at 31802.

<sup>5</sup> July 2025 SAVE PTA, *supra* n.2 at 5.

<sup>6</sup> 2020 SAVE SORN, *supra* n.1 at 31798-99.

<sup>7</sup> Letter Agreement Providing for Information Sharing Between DHS, USCIS, and SSA Regarding Citizenship, at 4 (May 15, 2025), <https://tinyurl.com/yz9tcpah> (posted Sept. 25, 2025).

<sup>8</sup> Privacy Act of 1974; System of Records; Correction, 90 Fed. Reg. 10025, 10026 (Feb. 20, 2025).

Americans.<sup>9</sup> The agreement also allowed SAVE users to query the records of U.S.-born citizens. With the addition of the SSA Master Files, users could “input Social Security numbers” to “help verify U.S. citizenship.”<sup>10</sup> Finally, the overhauled SAVE system would no longer force users to search for records about individuals one at a time. Instead, users could bulk upload requests to search millions of records in a single query.<sup>11</sup>

On May 22, 2025, DHS officially—in defiance of laws requiring advance public notice and the opportunity to comment on such impactful changes—launched the newly expanded SAVE system, touting it as a “a single, reliable source for verifying immigration status and U.S. citizenship.”<sup>12</sup>

## **B. But DHS lacked authority to overhaul the SAVE system.**

Even DHS seemed to recognize that the Immigration Reform and Control Act of 1986, which created SAVE, did not authorize such dramatic changes. The statute directed DHS’s predecessor agency to create a “system for the verification of immigration status” to assist states in determining whether “aliens” were eligible for “benefits.” Pub. L. No. 99-603, title I, §121(c)(1), 100 Stat. 3359, 3391 (1986), codified at 42 U.S.C. § 1320b-7 note; see also *id.* § 121(a)(1)(C), 100 Stat. at 3384-86, codified at 42 U.S.C. § 1320b-7(d). The plain text indicates that SAVE was only meant to allow user agencies to query the records of non-citizens on an individual basis.

Instead, DHS justified its actions through 8 U.S.C. § 1373,<sup>13</sup> a provision of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”). Pub. L. No. 104-208, § 642, 110 Stat. 3009, 707 (1996). That statute provides that “a Federal, State, or local government entity” may not “prohibit” or “restrict” the exchange of information between a government entity and DHS “regarding the citizenship or immigration status, lawful or unlawful, of any individual.” 8 U.S.C. § 1373(a). It also requires DHS to “respond to an inquiry” from a government entity about “the citizenship or immigration status” of individuals under DHS’s jurisdiction. *Id.* § 1373(c).

But DHS’s position that the IIRIRA authorized its overhaul of SAVE was a significant departure from the Executive Branch’s longstanding interpretation of the statute.<sup>14</sup> DHS had

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<sup>9</sup> *Social Security Performance*, SSA (Dec. 5, 2025), <https://perma.cc/K5UK-MSP2> (SSA “serve[s] more than 300 million Americans”).

<sup>10</sup> Press Release, USCIS, *USCIS Deploys Common Sense Tools to Verify Voters* (May 22, 2025), <https://perma.cc/HBZ5-RW2E>.

<sup>11</sup> *Id.*; see also Press Release, USCIS, *Optimizing SAVE: New Options to Create Cases with a Social Security Number and by Bulk Upload* (May 22, 2025), <https://perma.cc/FT2Y-NC2K>.

<sup>12</sup> *USCIS Deploys Common Sense Tools to Verify Voters*, *supra* n.10.

<sup>13</sup> See Privacy Act of 1974; System of Records, 90 Fed. Reg. 48948, 48952 (Oct. 31, 2025) (“2025 SAVE SORN”).

<sup>14</sup> See, e.g., *Relationship Between Illegal Immigr. Reform & Immigrant Resp. Act of 1996 & Statutory Requirement for Confidentiality of Census Info.*, 1999 WL 34995963, at \*4 (O.L.C. May 18, 1999) (Acting Ass’t Att’y Gen. Randolph D. Moss); DOJ Off. of Inspector Gen., *Department of Justice Referral of Allegations of Potential Violations of 8 U.S.C. § 1373 by Grant Recipients*, at 6 n.7 (May 31, 2016), <https://tinyurl.com/f6kyj5xv>; Off. of Just. Programs, *Office of Justice Programs Guidance Regarding Compliance with 8 U.S.C. § 1373*, <https://perma.cc/8R8M-XTL2>.

never before invoked the provision—which does not mention SAVE at all—to claim that it was entitled to expand SAVE or create a national citizenship database.

## **II. The SAVE system does not reliably identify citizenship and immigration status, and its use could disrupt eligible individuals' access to housing benefits.**

The overhauled SAVE system relies primarily on SSA's Master Files for citizenship and immigration information, but the SSA's citizenship data is notoriously unreliable. This is because SSA captures citizenship data from a single point in time: when an individual applies for a SSN and corresponding card.<sup>15</sup> SSA does not automatically update changes to an individual's immigration status, and "there is no obligation for an individual to report to SSA a change in their immigration status unless the individual is receiving Social Security payments."<sup>16</sup>

This expansive use of the SAVE system is especially problematic for naturalized and derived citizens. If an individual obtains a SSN and then becomes a naturalized citizen, their SSA record will typically still list them as a non-citizen unless and until they affirmatively prove their citizenship.<sup>17</sup> This often requires calling or making an in-person appointment at a regional SSA office.<sup>18</sup> Derived citizens, who gain citizenship by operation of law when their parents naturalize, have no reason to interact with the SSA until they are ready to apply for Social Security benefits. Though they can request a Certificate of Citizenship from DHS, the form's instructions make it clear that doing so is optional.<sup>19</sup> Moreover, the filing fee, at \$1,335, is prohibitively expensive.<sup>20</sup> A 2006 audit by SSA's Inspector General estimated that SSA's citizenship data inaccurately identified approximately 3.3 million U.S. citizens as non-citizens "because [they] had become U.S. citizens after obtaining their SSN" and "had not updated their records with SSA."<sup>21</sup> That number has likely increased substantially since 2006. In the last decade, more than 7.9 million Americans have naturalized, including over 800,000 in fiscal year 2024.<sup>22</sup>

SSA also lacks complete citizenship data for U.S.-born citizens born before 1981, the year SSA began consistently collecting citizenship information.<sup>23</sup> According to SSA, "SSA's assessment of its citizenship data indicates that approximately ¼ of those records do not have an indication of citizenship present."<sup>24</sup> That means SSA likely does not have information about citizenship status for U.S.-born citizens older than their mid-forties

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<sup>15</sup> Letter from SSA Off. of Gen. Couns. to Fair Elections Ctr., at 2 (July 13, 2023), <https://perma.cc/KS2N-U2US> ("Letter from SSA to Fair Elections Ctr.").

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Update Citizenship or Immigration Status*, SSA, <https://perma.cc/T895-G4HP> (last visited April 14, 2026).

<sup>19</sup> See USCIS, Form N-600, *Instructions for Application for Certificate of Citizenship* (Jan. 20, 2025), <https://perma.cc/TL82-TTDW> ("You are not required to obtain evidence of your U.S. citizenship.").

<sup>20</sup> *Fee Information: N-600, Application for Certificate of Citizenship*, USCIS (Jan. 8, 2026), <https://perma.cc/MSK9-DM5E>.

<sup>21</sup> SSA Off. of Inspector Gen., Cong. Resp. Rep. No. A-08-06-26100, *Accuracy of the Social Security Administration's Numident File*, at 13 (Dec. 18, 2006), <https://perma.cc/5G2J-FF4V>.

<sup>22</sup> See *Naturalization Statistics*, USCIS (Jan. 24, 2025), <https://perma.cc/X3T9-5CJS>.

<sup>23</sup> Letter from SSA to Fair Elections Ctr., *supra* n.15 at 2.

<sup>24</sup> *Id.* at 3.

unless they have subsequently filed for Social Security benefits or sought a new Social Security card.

DHS cannot mitigate these problems by cross-checking its own citizenship records. First, the databases do not share a “common identifier.”<sup>25</sup> An SSN cannot be used to query DHS-accessed records, and a DHS-issued numeric identifier such as an A-number cannot be used to query SSA records. This means that “information about foreign-born U.S. citizens contained in USCIS naturalization databases may not be locatable when SSA is unable to confirm” U.S. citizenship.<sup>26</sup> Second, DHS’s citizenship data, too, is often out-of-date and incomplete, particularly for naturalized and derived citizens.<sup>27</sup>

Moreover, DHS’s attempts to integrate the databases have raised new problems. The overhauled SAVE now enables user agencies to conduct searches using only the last four digits of a SSN (“SSN4”), which is not a unique identifier.<sup>28</sup> This creates a serious risk of mismatching records, a problem that has already been documented. A 2009 report by SSA’s Inspector General examining states’ use of SSN4 to verify voter information for the Help America Vote Verification (“HAVV”) Program found a “high no-match response rate” of “31 percent,” and inconsistent verification responses when the same applicant data was entered at different times.<sup>29</sup>

In the context of HUD’s housing assistance programs, the SAVE system could disrupt or delay benefits for a number of eligible recipients. As already explained, individuals who are in process of obtaining citizenship, as well as naturalized and derived citizens, are at particular risk of being flagged as ineligible due to outdated information. But even U.S.-born citizens—like those who have legally changed their names—could be flagged by SAVE and required to go through a burdensome verification process. HUD’s proposed rule has not cited any report or recommendation from HUD’s Office of Inspector General to support the use of SAVE data for this new, unauthorized purpose, but SSA has repeatedly warned that its citizenship data is unreliable,<sup>30</sup> and its Inspector General warned of “discrepancies” with SSA data, noting in a 2006 report, “We are particularly concerned with the extent of incorrect citizenship information in SSA’s Numident file for the foreign-born U.S. citizens and non-U.S. citizens we tested.”<sup>31</sup>

The proposed rule clearly contemplates that the SAVE system will produce some errors, and that some individuals will have to provide documentation to prove their

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<sup>25</sup> Westat Report to DHS, *Evaluation of the Accuracy of E-Verify Findings*, at xii (July 2012), <https://perma.cc/54EN-82KN>.

<sup>26</sup> *Id.*

<sup>27</sup> See, e.g., N.C. St. Bd. of Elections, *Post-Election Audit Report—General Election 2016*, at app. 2 (Apr. 21, 2017), <https://perma.cc/6VCM-LDVQ> (finding that the pre-2025 SAVE system, which queried the same DHS databases SAVE currently does, was “not always updated in a timely manner and individuals who derived citizenship from their parents through naturalization or adoption may show up as non-citizens in SAVE”); *Mi Familia Vota v. Fontes*, 129 F.4th 691, 709 n.3 (9th Cir. 2025) (citing evidence that pre-2025 SAVE may not have up-to-date USCIS “naturalization records”).

<sup>28</sup> July 2025 SAVE PTA, *supra* n.2 at 5.

<sup>29</sup> SSA Off. of Inspector Gen., No. A-03-09-29115, *Accuracy of the Help America Vote Verification Program Responses*, at 4 (June 22, 2009), <https://perma.cc/3NKG-TLWP>.

<sup>30</sup> See, e.g., Letter from SSA to Fair Elections Ctr., *supra* n.15.

<sup>31</sup> *Accuracy of the Social Security Administration’s Numident File*, *supra* n.21 at ii.

citizenship and maintain their benefits. Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed. Reg. at 8158-61 (describing the secondary verification process and informal hearing process to appeal adverse decisions). With so many beneficiaries verifying their eligibility all at once, these mistakes could have significant costs. As HUD acknowledges, SAVE's ability to process certain citizenship documentation is limited, and verification may require "manual records searches, which may take significant time." *Id.* at 8159. If HUD is committed to running its programs effectively and achieving their purpose of keeping vulnerable people housed, it does not make sense to adopt the SAVE system at this time.

### **III. DHS's overhaul of the SAVE system violates several federal laws, including the Social Security Act, the Privacy Act, and the Administrative Procedure Act.**

#### **A. The overhauled SAVE system violates the Social Security Act.**

SSA's decision to share millions of Americans' sensitive SSA data with DHS's SAVE system and its user agencies violates two provisions of the Social Security Act. First, it violates the Act's prohibition on SSA's "disclosure . . . of any file, record, report, or other paper, or any information . . . except as . . . agency . . . regulations prescribe and except as otherwise provided by Federal law." 42 U.S.C. § 1306(a). No statute or SSA regulation authorizes the agency to disclose SSA information to DHS for use in the overhauled SAVE system. Moreover, SSA policy states unequivocally that SSA does "not have the legal authority to disclose information about U.S. citizens to DHS," and that "[i]f DHS requests information and we determine the information pertains to both U.S. citizens and aliens, only information about the aliens can be disclosed."<sup>32</sup>

Second, Defendants' disclosures violate another provision of the Act providing that "Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number or related record." 42 U.S.C. § 405(c)(2)(C)(viii)(I). In overhauling and operating SAVE, DHS collected, verified, and disclosed SSNs and related records en masse. It did so pursuant to § 1373, a statute enacted "after October 1, 1990." Because no statute authorizes these disclosures, they violate § 405(c)(2)(C)(viii)(I).

#### **B. The overhauled SAVE system violates the Privacy Act.**

The overhauled SAVE system violates the Privacy Act's substantive and procedural requirements in four ways. First, the overhauled SAVE system repurposes records in bulk. The Privacy Act dictates that an agency may only disclose records pursuant to a valid exception under the statute, including a properly noted "routine use." *Chichakli v. Tillerson*, 882 F.3d 229, 233 (D.C. Cir. 2018); 5 U.S.C. § 552a(b)(3). To qualify for the "routine use" exception, a disclosure must be "both (i) 'for a purpose which is compatible with the purpose for which it was collected' and (ii) within the scope of a routine use notice published by the agency." *Ames v. DHS*, 861 F.3d 238, 240 (D.C. Cir. 2017) (quoting 5 U.S.C. § 552a(a)(7) and citing

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<sup>32</sup> SSA, Program Operations Manual System (POMS), *GN 03325.002 Disclosure and Verification of Social Security Numbers (SSN) Without Consent* (2023), <https://perma.cc/PE44-2QBK>; cf. 20 C.F.R. § 401.120 (recognizing SSA's authority to disclose information "regarding aliens" to DHS).

§ 552a(e)(4)(D)). But the SSA Master Files, now a key part of the SAVE system, were collected to facilitate SSA programs.<sup>33</sup> They were not intended to assist other agencies in determining eligibility for their own programs, let alone to serve as the basis for a national citizenship database. By importing SSA data into SAVE, DHS has repurposed SSA data in a way that is incompatible with the reason for which it was collected.

Second, the overhauled SAVE system maintains records that are inaccurate, untimely, and incomplete, and then allows agencies to use them to make determinations about individuals. The Privacy Act prohibits agencies from “maintain[ing]” citizenship records that are inaccurate, untimely, and incomplete, for purposes of making “determination[s]” about individuals. 5 U.S.C. §§ 552a(e)(5), (6). The statute defines “maintain” as “maintain, collect, use, or disseminate.” *Id.* § 552a(a)(3). DHS had conceded that the overhauled SAVE system uses and disseminates inaccurate records,<sup>34</sup> and agencies like HUD do seek to use SAVE to make determinations about individuals’ access to benefits. These data inaccuracies can cause “substantial harm, embarrassment, inconvenience, or unfairness,” *id.* § 552a(e)(10), to individuals wrongfully identified as non-citizens or potential non-citizens. These individuals risk being mistakenly removed from the voter rolls or losing access to benefits like HUD’s housing assistance programs.

Third, DHS expanded SAVE without first allowing an opportunity for comment, and subsequently failed to consider the comments it received. Under the Privacy Act, an agency “shall” “publish in the Federal Register notice of any new use or intended use of the information in [a] system [of records], and provide an opportunity for interested persons to submit written data, views, or arguments to the agency” at least 30 days before using the system in new ways. 5 U.S.C. § 552a(e)(11); see *id.* § 552a(e)(4). DHS began its overhaul of the SAVE system on May 22, 2025,<sup>35</sup> and continued using the overhauled system for five months before issuing its modified SORN on October 31, 2025.<sup>36</sup> SSA, for its part, did not issue a modified SORN until November 12, 2025.<sup>37</sup> Though both SORNs purported to elicit comments, they also made clear that the new routine uses that the agencies proposed would automatically take effect after 30 days, regardless of any comments.<sup>38</sup> In other words, the agencies failed to meaningfully consider the comments, thousands of which were submitted, and the vast majority of which opposed the overhaul.

Fourth, DHS created a new “matching program” without executing “matching agreements” or complying with other requirements. The Privacy Act defines a matching program as “any computerized comparison of two or more automated systems of records or a system of records with non-Federal records for the purpose of verifying the eligibility of . . .

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<sup>33</sup> See Privacy Act of 1974; System of Records, 90 Fed. Reg. 50879, 50880 (Nov. 12, 2025) (“SSA SAVE SORN”).

<sup>34</sup> DHS, DHS Ref. No. DHS/USCIS/PIA-006(d), *Privacy Impact Assessment for the Systematic Alien Verification Entitlements “SAVE” Program*, at 19 (Oct. 31, 2025), <https://perma.cc/G92U-LYPM> (finding “risk” that overhauled SAVE “may share inaccurate information with registered agencies”); July 2025 SAVE PTA, *supra* n.2 at 17 (recognizing overhauled SAVE’s “[s]hortfalls in data accuracy”).

<sup>35</sup> See *Optimizing SAVE: New Options to Create Cases with a Social Security Number and by Bulk Upload*, *supra* n.11.

<sup>36</sup> 2025 SAVE SORN, *supra* n.13.

<sup>37</sup> SSA SAVE SORN, *supra* n.33 at 50880.

<sup>38</sup> 2025 SAVE SORN, *supra* n.13 at 48949; SSA SAVE SORN *supra* n.33 at 50880.

applicants for, recipients or beneficiaries of ... Federal benefit programs.” 5 U.S.C. § 552a(a)(8)(A)(i)(I). To use agency records in a matching program, the Privacy Act requires that both the source and recipient agencies first execute a “written agreement . . . specifying” certain information. *Id.* § 552a(o)(1)(A)-(J). Matching agreements must be transmitted to relevant congressional committees and available upon request to the public. *Id.* § 552a(o)(2)(A). They may not exceed time limits set by agency Data Integrity Boards. *Id.* § 552a(o)(2)(C). And notice of any matching program with a non-Federal agency must be published in the Federal Register “at least 30 days prior to conducting such program.” *Id.* § 552a(e)(12). Overhauled SAVE is a new matching program subject to the requirements of 5 U.S.C. § 552a(o). SAVE and the various federal systems it accesses are “systems of records”; SAVE ingests “non-Federal records” uploaded in bulk by state and local SAVE users; and SAVE undertakes a “computerized comparison” of those records to verify the eligibility of applicants for federal benefit programs.<sup>39</sup> See 5 U.S.C. § 552a(a)(8)(A)(i)(I). Yet Defendants have not executed matching agreements for these new programs, published notice in the Federal Register, or solicited public comment, in violation of the Privacy Act.

### C. The overhauled SAVE system violates the Administrative Procedure Act.

DHS’s decision to overhaul SAVE was arbitrary and capricious, a violation of the Administrative Procedure Act (“APA”). 5 U.S. Code § 706(2)(a). As previously mentioned, DHS acknowledged that it intended to continue operating the overhauled SAVE system regardless of any comments it received on its belated SORNs. The SORNs noted that the new routine uses would automatically take effect after 30 days,<sup>40</sup> and DHS continued operating SAVE even as the agency accepted comments. DHS received thousands of comments<sup>41</sup> from public officials;<sup>42</sup> election administrators;<sup>43</sup> voting, immigrant, and privacy rights organizations,<sup>44</sup> and many thousands of individuals,<sup>45</sup> 98% of which opposed the overhaul.

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<sup>39</sup> 2025 SAVE SORN, *supra* n.13 at 48948-51.

<sup>40</sup> 2025 SAVE SORN, *supra* n.13 at 48949.

<sup>41</sup> Document Comments, 2025 SAVE SORN, <https://tinyurl.com/48hrxzkv>.

<sup>42</sup> Comment to DHS by State Attorneys General (Dec. 1, 2025), <https://tinyurl.com/4jhav34z> (“AGs DHS Comment”); Comment to DHS by U.S. Sen. Alex Padilla (Dec. 1, 2025), <https://tinyurl.com/2s4dvea8> (“Padilla DHS Comment”); Comment to DHS by Members of U.S. House of Reps., (Dec. 1, 2025), <https://tinyurl.com/4m97pyat> (“House Members DHS Comment”).

<sup>43</sup> See, e.g., Comment to DHS by Secretaries of State (Dec. 1, 2025), <https://tinyurl.com/56hcp2rc> (“SOS DHS Comment”).

<sup>44</sup> See, e.g., Comment to DHS by ACLU (Dec. 1, 2025), <https://tinyurl.com/yd5h4jfi> (“ACLU DHS Comment”); Comment to DHS by Asian Americans Advancing Justice (Dec. 1, 2025), <https://tinyurl.com/bdfya5s9> (“Advancing Justice DHS Comment”); Comment to DHS by Brennan Center for Justice (Dec. 1, 2025), <https://tinyurl.com/yc2dhkfa> (“Brennan DHS Comment”); Comment to DHS by Campaign Legal Center (Dec. 1, 2025), <https://tinyurl.com/3k2ve8kn> (“CLC DHS Comment”); Comment to DHS by MALDEF (Dec. 1, 2025), <https://tinyurl.com/2fr7md7x> (“MALDEF DHS Comment”); Comment to DHS by NAACP Legal Defense and Education Fund (Dec. 1, 2025), <https://tinyurl.com/fnynzdd3> (“LDF DHS Comment”); Comment to DHS by Protect Democracy Project (Dec. 1, 2025), <https://tinyurl.com/yabxvuv8> (“PD DHS Comment”); Comment to DHS by Texas Civil Rights (Nov. 18, 2025), <https://tinyurl.com/2z46yd2j>.

<sup>45</sup> See, e.g., Comment to DHS by Rebecca Stanwyck (Dec. 1, 2025), <https://tinyurl.com/3hvtbyby>.

The comments raised concerns about the legality of DHS's efforts to expand SAVE<sup>46</sup> and about the database's implications for individual privacy and data security.<sup>47</sup> They also identified several serious problems with the SAVE system's data and functionality.<sup>48</sup> Even so, it appears that DHS did not consider or respond to any of these concerns. In addition, DHS's overhaul of the SAVE system was a departure from longstanding agency policy without any "reasoned explanation" that showed they were "aware[]" that they were "changing position" or that they had considered "serious reliance interests." *FDA v. Wages & White Lion Invs.*, 604 U.S. 542, 568 (2025) (citation modified). DHS's commitment to a predetermined outcome, failure to consider relevant factors, disregard for adverse evidence, and failure to acknowledge their change in position amount to arbitrary and capricious decisionmaking. DHS's overhaul of the SAVE system violated its obligations under the APA. HUD should not endorse DHS's illegal actions by utilizing the SAVE system.

#### **IV. HUD has faced longstanding and significant challenges protecting the public's sensitive data.**

In addition to risks from DHS's illegal use of the SAVE system, HUD has a well documented history of its own challenges regarding the protection of the public's personally identifiable information that it accesses. For example, in 2024, HUD's Office of Inspector General ("HUD OIG") concluded after an evaluation that "HUD maintained a significant number of records that contain PII with limited zero trust controls in place to secure these data."<sup>49</sup> HUD OIG noted that the agency's attempt to adopt a plan to address these gaps "had made limited progress."<sup>50</sup> HUD OIG's website indicates that as of April 2026, four of their six recommendations remain outstanding.<sup>51</sup>

In December 2025, HUD OIG issued its most recent report documenting HUD's top management challenges, noting that "program participants and the American people use HUD systems to access critical housing services and entrust HUD with their personally identifiable information (PII), financial data, and other records," but that HUD's systems were outdated, "vulnerable to breaches, and do not meet HUD's mission-critical needs."<sup>52</sup> In a series of reports, HUD OIG found that the agency needed to "implement additional

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<sup>46</sup> See, e.g., ACLU DHS Comment, *supra* n.44 at 3-7, 9; Brennan DHS Comment, *supra* n.44 at 2-4; CLC DHS Comment, *supra* n.44 at 11-13; MALDEF DHS Comment, *supra* n.44 at 5-9; AGs DHS Comment, *supra* n.42 at 2-5; SOS DHS Comment, *supra* n.43 at 14-20; Padilla DHS Comment, *supra* n.42 at 2; House Members DHS Comment, *supra* n.42 at 2-3; PD DHS Comment, *supra* n.44 at 8.

<sup>47</sup> See, e.g., AGs DHS Comment, *supra* n.42 at 9-10; SOS DHS Comment, *supra* n.43 at 4-6.

<sup>48</sup> See, e.g., ACLU DHS Comment, *supra* n.44 at 9-10; CLC DHS Comment, *supra* n.44 at 2-6, 8-9; LDF DHS Comment, *supra* n.44 at 3-5; See, e.g., Advancing Justice DHS Comment, *supra* n.44 at 3-6; AGs DHS Comment, *supra* n.42 at 6-7; SOS DHS Comment, *supra* n.43 at 20-26; Padilla DHS Comment, *supra* n.42 at 2; House Members DHS Comment, *supra* n.42 at 2-3.

<sup>49</sup> HUD Off. of the Inspector Gen., Rep. No. 2023-OE-0007, *The U.S. Department of Housing and Urban Development's Personally Identifiable Information Risk Management in a Zero Trust Environment*, at 3 (Dec. 12, 2024), <https://perma.cc/G5DW-K9G3>.

<sup>50</sup> *Id.*

<sup>51</sup> *U.S. Department of Housing and Urban Development Personally Identifiable Information Risk Management in a Zero Trust Environment (2023-OE-0007) Evaluation Report*, HUD Off. of Inspector Gen. (Dec. 12, 2024), <https://tinyurl.com/2vv83k6f> (last visited Apr. 16, 2026).

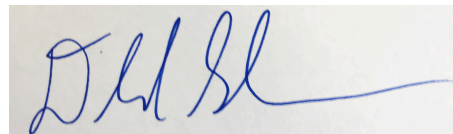
<sup>52</sup> HUD Off. of Inspector Gen., *Top Management and Performance Challenges Facing the U.S. Department of Housing and Urban Development*, at 4 (Dec. 17, 2025), <https://perma.cc/QVH9-9E9Q>.

cybersecurity measures to protect its network and platforms from breaches” and that the agency is “challenged in determining the amount of PII it has and in automating a process to inventory that information.”<sup>53</sup> These longstanding and well documented challenges raise even more questions about HUD’s proposed rule which would “affect all participants 62 years of age or older as of January 31, 2010, and all participants who had previously elected to not contend eligible immigration status, who have not yet provided a valid SSN,” thus significantly expanding the number of individuals who are providing their PII to HUD. Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed. Reg. at 8153.

### **Conclusion**

Many commenters have written persuasively about how HUD’s proposed rule threatens to break up families and turn people out of their homes. But I write on behalf of CREW to add that if this rule goes into effect, many of the individuals whose benefits will be interrupted, delayed, or terminated will be people who are in fact entitled to those benefits. The SAVE system is simply too flawed to effectively verify the eligibility of HUD’s beneficiaries. *Moreover*, in embracing the overhauled SAVE system, HUD would be sanctioning DHS’s disregard for the law and for Americans’ personal privacy. HUD should not risk making the SAVE system the centerpiece of its eligibility verification process.

Sincerely,



/s/ Donald K. Sherman  
President and Chief Executive Officer

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<sup>53</sup> *Id.* at 5.