



Questions and Answers

August 7, 2020

Sponsor Deeming and Agency Reimbursement Information Sharing

U.S. Citizenship and Immigration Services (USCIS) provides these Q&As in response to public comments received to its Notice of Modified System of Records.¹

Questions and Answers

1. Does DHS have legal authority to collect and use this information through the Systematic Alien Verification for Entitlements (SAVE) system?

Yes. USCIS discussed this extensively in the Supporting Statement.² In addition, and as discussed in Supporting Statement, SAVE is the most efficient and effective means for collecting information about how federal means-tested public agencies use sponsor information provided to them by SAVE.³

2. Is sponsor deeming and agency reimbursement part of immigration law or federal public benefit law, or both? Which federal agencies have legal authority to administer and oversee those laws?

The sponsor deeming and agency reimbursement legal authorities are both laws directly related to the administration of means-tested public benefits and “immigration laws.” The laws covering sponsor deeming and agency reimbursement directly include DHS as well as benefit administering and oversight agency functions in administering sponsor deeming and agency reimbursement processes. DHS thus works closely with benefit administering and oversight agencies in administering aspects of those laws, and administers some aspects of those laws itself.

3. Is DHS changing its policy regarding the sharing of information within DHS?

No. It has been DHS policy since at least 2007 that, subject to statutory or other legal prohibitions, whenever DHS personnel, acting on behalf of a DHS Component in furtherance of the DHS mission, have satisfactorily demonstrated an authorized need to obtain and access certain information and/or data, of which another DHS Component has stewardship, such information and/or data may, and should, be shared with the requestor. This is known as the “One DHS” information sharing policy. While DHS is comprised of multiple Components, it is nevertheless a single unified entity wherein all relevant information generated and received by individual entities within DHS is to be accessible to and shared amongst and between all other DHS Components that have a demonstrated need for the information. The recipient of information, including SAVE information, however, as directed by the DHS information sharing policy, the Privacy Act of 1974, as amended, and other laws, rules and regulations, must still have

¹ See, 85 Fed. Reg. 31798 (5/27/20).

² USCIS also incorporates and references its responses to public comments in the Information Collection Review process, including its Supporting Statement and associated documents, in these responses. Those documents have been publicly available on the Office of Management and Budget web site at

https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202004-1615-006 since May 6, 2020.

³ This Q&A uses the terms “sponsor” and “sponsors” to refer to Form I-864/I-864EZ, Affidavit of Support sponsors as well as Form I-864A, Contract Between Sponsor and Household Member household members since sponsor deeming and agency reimbursement apply to both.

a need for the information, legal authority to obtain the information; and may only use the information to the extent permitted by and consistent with agency authorities and any restrictions imposed by statute, executive order, presidential or other directive, or national or DHS policy.

4. Does the DHS policy a meaningful standard and limit to information sharing within DHS? Is there review or auditing of SAVE data and information dissemination?

Yes. DHS has successfully operated under the agency-wide information sharing standard for internal information sharing since at least 2007. The agency has safeguards in place against prohibited information sharing, including internal agency information sharing policies, training, system user roles, memoranda of agreement and understanding, standard operating procedures, and other agency management practices. Prior to commencing the proposed data/information sharing, USCIS completed extensive privacy review and analysis including a DHS Privacy Threshold Analysis, an updated Privacy Impact Assessment (PIA), and a modified SORN with responses to public comments.⁴ These documents are periodically reviewed and updated. In addition, SAVE conducts internal reviews and is subject to USCIS management audits as well as audits from entities such as the DHS Office of Inspector General, the DHS Privacy Office and the DHS Office for Civil Rights and Civil Liberties.

5. Does the modified information collection, storage, use and sharing permit use of SAVE information for administrative (non-criminal) immigration enforcement purposes? Does it change the 2013 U.S. Immigration and Customs Enforcement (ICE) policy regarding use of information about Medicaid, Children's Health Insurance Program, and Affordable Care Act applicants, enrollees, and beneficiaries and their household members obtained for purposes of immigration status verification?

No. None of these modifications include sharing or using SAVE information for administrative (non-criminal) immigration enforcement. They also do not change the ICE 2013 policy regarding use of information received during applicant verification processes under the Patient Protection and Affordable Care Act.

6. Has USCIS provided adequate transparency, justification, and opportunity to comment as required by applicable laws governing implementation of agency policy?

Yes. USCIS's intended information sharing related to the new information collection has been justified, analyzed and discussed, including describing the impact of the collection on agencies and the public, in the May 23, 2019 [Presidential Memorandum on Enforcing the Legal Responsibilities of Sponsors of Aliens](#), the Supporting Statement and associated ICR documents, the updated PIA, the SORN, and in these Q&As, in accordance with applicable laws.

7. Is the collection, sharing and use of benefit determination, deeming, and reimbursement information by SAVE allowed by Section 1902(a)(7) of the Social Security Act (42 U.S.C. § 1396a(a)(7)) and 42 C.F.R. 431.302 vis-à-vis specified state plans for medical assistance (Medicaid)?

Yes. Please see the Supporting Statement and associated documents for additional information addressing this question.

8. Has USCIS addressed concerns regarding Federal and state privacy and confidentiality laws, regulations, and policies that protect the confidentiality of sponsors and individuals who apply for or receive public benefits?

⁴ The updated PIA can be found at <https://www.dhs.gov/publication/systematic-alien-verification-entitlements-save-program>, DHS Reference No. DHS/USCIS/PIA-006(c).

Yes. Please see the Supporting Statement and other items in this Q&A for additional information addressing this question.

9. Did USCIS consider N.Y. Social Servs. L. § 367-B(4), which limits disclosure of information relating to applicants and recipients medical assistance to those considered entitled to such information in accordance with another New York statutory provision when such disclosure is necessary for the proper administration of public assistance programs?

USCIS does not comment on the application or interpretation of state laws but notes that this optional information collection and sharing is expressly aimed at supporting the proper administration of public assistance programs and, as such, should be permitted under N.Y. Social Servs. L. § 367-B(4).

10. Did USCIS sufficiently address all federal privacy protections, for example protections under the Health Insurance Portability and Accountability Act (HIPAA), protections related to the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other federal means-tested public benefit programs, as well as 8 U.S.C § 1367 (victims of domestic violence, sexual assault, and human trafficking), and the TANF Family Violence Option)?

Yes. Please see the information provided in the Supporting Statement and the other items in this Q&A. In addition, DHS and USCIS have a robust privacy review program which reviews agency programs and initiatives to ensure compliance with the Privacy Act and other applicable legal requirements regarding protection of sensitive information, including protections set forth in 8 U.S.C § 1367 and other laws. Information in the proposed collection was reviewed to ensure the collection and use of data is limited to that which is necessary for purposes of administering the statutes and programs noted in the Supporting Statement and this Q&A. With respect to HIPAA and the TANF Family Violence Option (FVO), commenters made general references to these statutes and regulations but raised no specific concerns, and USCIS and its agency partners have been unable to identify any.

11. Have federal agencies overseeing benefit administration been involved in this initiative, and will DHS efforts overlap or duplicate their oversight of federal means-tested public benefit granting programs?

The federal agencies overseeing SNAP, Medicaid, TANF and CHIP have helpfully participated in developing this optional SAVE information collection and ensuring it does not address needs already met through existing oversight systems. Their participation has been particularly helpful in improving Affidavit of Support consent language and mitigating potential privacy impacts to SAVE processes.

12. Did USCIS account for processing personnel who administer the SAVE initial verification response possibly being different from agency personnel handling deeming and reimbursement?

Yes. Please see the information provided in the Supporting Statement and other items in this Q&A. In addition, as always, SAVE stands ready to help user agencies adjust their SAVE account and user configurations and permissions to facilitate their use of SAVE, including but not limited to the optional sponsorship questions information collection.

13. Do the terms of the Computer Matching Agreement (CMA) or Memorandum of Agreement (MOA) that SAVE and each federal means-tested public benefit-granting agencies agree to permit the collection, sharing and use of benefit eligibility, deeming, and reimbursement information, and the use of information from SAVE for USCIS bond management and other lawful purposes?

Yes. Please see the Supporting Statement and other items in this Q&A for additional information addressing this question.

14. Did DHS provide advance notice of the changes noted in the SORN to the U.S. House of Representatives, the Senate, and the Office of Management and Budget (OMB)?

Yes. The DHS Chief Privacy Officer timely notified OMB and sent a notification letter with a copy of the signed SORN to the appropriate congressional offices.

15. Will the collection of deeming, reimbursement, and eligibility information through SAVE comply with the requirement to “maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President”?

Yes. Please see the Supporting Statement and other items in this Q&A for additional information addressing this question.

16. Did USCIS consider and discuss the burden that the optional information collection would have on state and local governments?

Yes. USCIS extensively considered and discussed burden as part of the 60-day and 30-day Paperwork Reduction Act (PRA) Federal Register Notices (84 Fed. Reg. 69386 and 85 Fed. Reg. 26984) and the related Supporting Statement, responding to all comments received in accordance with the instructions in the notices inviting comments. Please also see the Supporting Statement and other items in this Q&A for additional information addressing this question.

17. Would agencies participating in the optional information collection need to differentiate and specify benefit types? Would participation in the optional information collection require agencies to devote resources and staff time to establish whether sponsor liability exists, as well as procedural requirements to seek reimbursement?

SAVE will provide the option to answer the questions about how the agency used the sponsor and/or household information only when SAVE has provided sponsor or household information as part of the SAVE response to the agency’s immigration status verification request. Accordingly, for purposes of participating in the proposed information collection, user agencies should not have to differentiate or specify benefit types beyond what they already do.

Please note, however, that SAVE user agencies must, as part of submitting an immigration status verification request to SAVE, indicate the public benefit or benefits that are submitting the request for. This helps ensure, among other things, that user agencies are only submitting requests and receiving information needed to determine eligibility for the public benefit or benefits for which the user agency submitted its request.

Also, the optional information collection does not require agencies to determine sponsor liability. Instead, it merely asks whether or not the agency decided to pursue sponsor reimbursement and, if so, to provide information regarding the status and ultimate result of the request. Among other things, this informs the federal government whether there is a state collection effort that it should await before determining whether the federal government can and should seek reimbursement.

18. Some comments said federal means-tested public benefit-granting agencies are shouldering an increased workload due to coronavirus and do not have sufficient resources to also participate in the proposed information collection. Some comments said that low-income immigrant communities have faced disproportionate harm from coronavirus due to their heavier participation in industries affected by coronavirus (e.g. food service, retail), and that participation in the optional information collection would draw resources away from these individuals. Has USCIS considered these concerns?

Yes. Please see the Supporting Statement for additional information addressing these concerns. In addition, USCIS reiterates here that it will work with responding agencies, and in particular with responding agencies significantly impacted by the coronavirus pandemic and those that serve low-income communities, to minimize any burdens they may face in responding to this information collection including through additional training, temporarily adjusting response timelines, and adapting technical and business practices to the extent practicable to ensure full participation in the information collection.

19. Citing research and statistics from the public charge context, some comments say that proposed information collection would create confusion, alarm, and fear that would chill participation in Federal means-tested public benefit programs. Some comments also said that the proposed information collection would cause aliens and citizens to either disenroll from or forego enrollment in Federal means-tested public programs, with such actions more likely impacting those with particular needs such as households with children and those needing pre-natal and post-natal care. Has USCIS considered these concerns?

Yes. Please see the Supporting Statement for additional information addressing this question.

20. Did USCIS add Category L in the modified SORN, regarding limited disclosures to news media and public, without indicating that it is a new category as some comments said?

No. The Routine Use in the SAVE SORN for disclosure to the news media and the public was moved from Routine Use J to Routine Use L. Please see the prior SORN for reference:

<https://www.federalregister.gov/documents/2016/11/08/2016-26499/privacy-act-of-1974-department-of-homeland-security-united-states-citizenship-and-immigration>

21. Some comments noted that the modified SORN states: “This modified system will be effective upon publication. New or modified routine uses will be effective June 26, 2020,” which is the day the public comment period ended. Did USCIS consider the comments to the SORN before implementing any of the modifications to the SORN?

Yes. USCIS has reviewed and addressed the comments to the modified SORN, including in part by publishing these Q&As, prior to implementing any of the modifications.

22. Does the proposed collection of sponsor deeming and agency reimbursement information increase the risk of mistaken identity, and potentially dire consequences from that?

No. SAVE requires user agencies to perform identity proofing as a condition of using SAVE. In addition, due process protections provide benefit applicants and sponsors the opportunity to identify and address mistaken identity as part of their notice and opportunity to be heard that is part of benefit eligibility and sponsor financial liability determinations. Moreover, the information collection should reduce the risk of fraud and mistaken identity by allowing participating agencies and federal government agencies to correlate data and address data aberrations and discrepancies.

23. Would participating in the information collection make it more difficult for SAVE user agencies to comply with existing SAVE program requirements?

A23. No. To the contrary, as discussed in the Supporting Statement elsewhere in this Q&A, the information collection will assist rather than detract from the ability of user agencies in complying with SAVE program and other federal statutory, regulatory, and policy requirements.