



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410-4500

OFFICE OF THE INSPECTOR GENERAL

February 21, 2001

Audit-Related Memorandum  
2001-DP-0801

MEMORANDUM FOR: Frank Davis, Director, Office of Departmental  
Operations and Coordination, I

FROM: Benjamin K. Hsiao, Director, Information Systems Audit Division, GAA

SUBJECT: Review of the Department's Internet Privacy Status, Pursuant to Requirements of  
the Treasury and General Government Appropriations Act, 2001

Our office has completed a review to determine whether the Department or any third parties, including other governmental agencies, are obtaining personally identifiable information relating to any individual's access or viewing habits for governmental or non-governmental Internet sites. The review (see Attached) was performed in accordance with December 21, 2000, Congressional legislation under Section 646 of the Treasury and General Government Appropriation Act, 2001 (Public Law 106-554).

OIG determined that the Department has not been collecting personally identifiable information on HUD Internet users. However, two areas need improvement. Management oversight to ensure adequate privacy on HUD's Internet web pages should be strengthened. Additionally, the standard privacy statement needs strengthening and all HUD contracted sites should have hyperlinks to the statement.

Please respond to the recommendations by March 16, 2001. Should you have any questions, or require additional information, please contact me at 708-3444, extension 149; or Jay Jacobsen at 708-3444, extension 137.

Attachment

## BACKGROUND

On December 21, 2000, Congress passed legislation, under Section 646 of the Treasury and General Government Appropriation Act, 2001 (Public Law 106-554), which requires that:

“Not later than 60 days after the date of enactment of this Act, the Inspector General of each department or agency shall submit to Congress a report that discloses any activity of the applicable department or agency relating to—

- (1) the collection or review of singular data, or the creation of aggregate lists that include personally identifiable information, about individuals who access any Internet site of the department or agency; and
- (2) entering into agreements with third parties, including other government agencies, to collect, review, or obtain aggregate lists or singular data containing personally identifiable information relating to any individual’s access or viewing habits for governmental and non-governmental Internet sites.”

The criteria we relied on to conduct the required review is the OMB Memorandum Number M-00-13 issued on June 22, 2000. The purpose of this memorandum is to remind agencies that they are required by law and policy to establish clear privacy policies for its web activities and to comply with those policies. Agency contractors should also comply with those policies when operating web sites on behalf of agencies. Privacy policies must be clearly labeled and easily accessed when someone visits a web site.

Of particular concern is the use of Internet technology to track the activities of users over time and across different web sites. These concerns are especially great where individuals accessing government Internet sites do not have clear and conspicuous notice of any such tracking activities. "Cookies" are an Internet software tool that can be used in this way. OMB guidance provided that agencies can only use "cookies" or other automatic means of collecting information if there is clear notice of those activities and personal approval by the head of the agency.

A cookie is a mechanism that allows the Internet server to store its own information about a user on the user's own computer. There are two major types of cookies--session cookies and persistent cookies. Session cookies are short-lived, they are used only during the surfing session to facilitate browsing, and expire when the user quits the session. They cannot be used to collect personal information and viewing habits of Internet users. On the other hand, persistent cookies are stored on the users' computers between sessions and can be used to track browsing behavior by identifying the users Internet addresses. In the commercial sector, both the session and persistent cookies are used by Internet shopping sites to keep track of the contents of a shopping cart, but only persistent cookies may be used to create and store customized user profiles. A "third-party cookie" is a persistent cookie that is shared between different Internet sites of disparate organizations. OMB is particularly concerned with Federal use of persistent “cookies”, including “third-party cookies.”

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

The objective of our review is to determine whether "persistent cookies" or "third party cookies" are being used on the Department's Internet web pages to collect personally identifiable information without appropriate authorization. We evaluated applicable laws, regulations, policies and procedures, including the privacy statement, and interviewed key personnel responsible for managing HUD's Internet web pages.

We also performed a limited test of HUD Internet web pages to determine whether HUD is using unauthorized persistent cookies to gather personally identifiable information.

## **RESULTS OF REVIEW**

We determined that the Department's Internet web pages did not contain persistent "cookies", including "third-party cookies." In general we also found that the Department's policy on web pages is in compliance with the OMB guidance. However, improvements in two areas are needed as described below.

### Management Oversight

Under the current policies, individual web managers of program areas are responsible for the content of their web sites. There is no requirement for management review or oversight of Web contents to ensure that all of the Department's Internet web pages adhere to Federal privacy legislation. Although we did not find any persistent "cookies", there is no assurance that future web pages would protect the privacy of those accessing HUD Internet web pages.

### Privacy Statement

Another concern we have is on the content and availability of HUD's privacy statement. This statement lacked a disclaimer on security to inform users that there are inherent risks of unauthorized access to personally identifiable information on the public Internet. An example of a security disclaimer is "...due to the nature of the Internet and the World Wide Web, we cannot assure the security of the information during transmission by electronic mail over the public Internet."

With respect to availability of the privacy statement, we observed 45 of 122 indexed web pages, which can be directly accessed from the site index on the main page, did not have a hyperlink to the standard privacy statement. HUD's web manager did indicate that all indexed web pages would be linked to HUD's standardized privacy statement. We also determined that the six HUD-contracted sites (such as Community Connections) we examined were not linked to HUD's privacy statement. In addition, we noted a minor deficiency with the placement of the hyperlink. The hyperlinks to the privacy statement are placed on the lower right side of the web page, which is not a conspicuous location.

## **RECOMMENDATIONS**

1. Update the Internet policy to require that the Department Web Manager conduct periodic management reviews to ensure adequate privacy on HUD's Internet web pages, including those web pages on HUD's contracted sites.
2. Add appropriate disclaimer comment(s) on security to HUD's privacy statement.
3. Ensure that all HUD indexed web pages and contracted Internet web sites include a hyperlink to Department's standardized privacy statement.
4. Consider placing the hyperlinks to the privacy statement on the top left side of the web pages rather than on the lower right hand corner.

## **DISTRIBUTION**

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Room 4011, Washington, DC 20552; ATTN: Armando Falcon  
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The Honorable Fred Thompson, Chairman, Committee on Governmental Affairs,  
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