

**SUMMARY OF CLEARANCE**  
**SUMMER FOOD SERVICE PROGRAM**  
**7 CFR PART 225 – OMB #0584-0280**

The Department of Agriculture, Food and Nutrition Service (FNS) is issuing a final rule entitled “Disclosure of Children’s Free and Reduced Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs.” This final rule will establish the requirements for the disclosure of children’s free and reduced price meals or free milk eligibility information. This submission requests incorporation of the requirements of the final rule into the Summer Food Service Program.”

This submission requests approval of 257,363 burden hours for 7 CFR Part 225.

## **SUMMER FOOD SERVICE PROGRAM JUSTIFICATION STATEMENTS**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

Section 13 of the National School Lunch Act (NSLA), as amended, authorizes the Summer Food Service Program for Children (SFSP). The SFSP provides assistance to States to initiate and maintain nonprofit food service programs for children in service institutions during the summer months and at other approved times. The food service to be provided under the SFSP is intended to serve as a substitute for those programs (the National School Lunch and School Breakfast Programs) for children who primarily are from needy areas. Children 18 and younger may receive free meals and snacks through SFSP. Meals and snacks are also available to persons with disabilities, over age 18, who participate in school programs for people who are mentally or physically disabled. Paragraph 9(b) of the NSLA provides that the income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually. For closed enrolled sites and camps, households may submit applications to determine the eligibility of enrolled children based on the income eligibility guidelines. Households may list their Food Stamp, Temporary Assistance for Needy Families (TANF) Program or Food Distribution Program on Indian reservations (FDPIR) case number in lieu of social security number on the application. Sponsors may also use alternate forms to document a child's eligibility such as, Head Start Eligibility Forms and Workforce Investment Act Participation.

Section 9(b)(6) of the NSLA authorizes the limited disclosure of children's free and reduced price meal or free milk eligibility information to: 1) persons directly connected with the administration or enforcement of programs authorized under the Richard B. Russell National school Lunch Act or the Child Nutrition Act of 1966; 2) persons directly connected with the administration or enforcement of a Federal education program; state health or education program; a Federal, State, or local means-tested nutrition program; 3) the Comptroller General of the United States; a Federal, state or local law official; 4) a person directly connected with the administration of the State Medicaid program or the State children's health insurance program; and a third party contractor. Except that, the parent/guardian must be provided the opportunity to decline to share eligibility information prior to the disclosure for identifying children eligible for benefits under or enrolling children in the State Medicaid Program and the State's children's health insurance program. Additionally the statute specifies that for any disclosures not authorized by the statute, the consent of children's parent/guardian must be obtained prior to the disclosure. Section 9(b)(6) further specifies that certain programs may receive children's eligibility status only without parental consent. Parental consent must be obtained to disclose any additional eligibility information. Social security numbers may only be disclosed if households are given notice of the disclosure and the uses to be made of their social security numbers as required by Sec. 7 of the Privacy Act.

The final rule will reflect the disclosure provisions of the Healthy Meals for Healthy Americans Act of 1994 and comments received on the proposed rule, “Disclosure of Children’s Eligibility Information” published July 25, 2000, at 65 FR 45725-45739. Additionally, the final rule includes the regulatory disclosure provisions implementing the Agricultural Risk Protection Act of 2000 and comments received on the interim rule, “Disclosure of Children’s Eligibility Information to State Medicaid and the State Children’s Health Insurance Program” issued January 11, 2001, at 66 FR 2195-2206. The final rule will also implement nondiscretionary provisions of the Child Nutrition and WIC Reauthorization Act of 2004 that allows certain third party contractors access to children’s eligibility status and allow school officials to communicate with Medicaid and SCHIP officials to verify that children are eligible for free and reduced price school meals or free milk.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

State agencies and local program operators that administer the Summer Food Service Program and households which apply for and/or are approved for free and reduced price meals will be provided the specifics on how and when eligibility status may be disclosed. Further, certain third party contractors will be allowed access to children’s eligibility status, and school officials will be allowed to communicate with Medicaid and SCHIP officials to verify that children are eligible for free and reduced price school meals or free milk. The purpose of sharing meal benefit eligibility data includes reducing redundant means testing, increasing the number of needy families being reached by assistance programs, improving targeting of U.S. Department of Education’s programs for needy children and increasing the integrity of certain assistance programs.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

FNS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. To the extent possible, agencies within the States use electronics to transfer information for SFAs and institutions where applicable.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

We are not aware of any other program that has similar information already available or that requires the maintenance of the same records needed to document the proper operation of the programs. No State or local organization collects this same information for other Federal agencies, as the SFSP is administered at the Federal level solely by FNS.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.**

Some local agencies and institutions undoubtedly meet the definition of “small organizations.” However no correlation exists between the applicant’s size and its eligibility to operate the program. The disclosure of children’s eligibility information for use other than to determine and verify eligibility for free and reduced price meals is a State and local decision. Officials are not required to disclose children’s eligibility information.

The following entities administer, operate or participate in the SFSP at the State and local levels:

**Reporting**

State Agencies	53
Sponsors	3,589
Camps & Other Sites	3,187
Households	<u>127,757</u>

**Total Respondents 134,586**

**Recordkeeping**

State Agencies	53
Sponsors	3,589
Camps and other sites	<u>802</u>

**Total Respondents 4,444**

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

FNS will not be in compliance with the requirements for disclosing children’s eligibility information as mandated by amendments to the Richard B. Russell National School Lunch Act by Public Law 103-448, Public Law 106-224 and Public Law 108-265.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.**

There are no special circumstances that require this collection to be conducted in a manner that would be inconsistent with the guidelines in 5 CFR 1320.6.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency’s notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection.**

In accordance with the Paperwork Reduction Act of 1995, a 60-day notice was embedded in the

proposed rule, “Disclosure of Children’s Eligibility Information” published on July 25, 2000, at 65 FR 45725. Also, a 60-day public comment notice, Agency Information Collection Activities: Proposed Collection; Comment Request: Disclosure of Children’s Free and Reduced Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs, was published in the Federal Register on July 19, 2006, at pages 40985-40987. The notice provided the public an opportunity to submit comments on the information collection resulting from the final rule. No comments were received in response to the public notices .

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

The person outside of the Agency with whom we obtained views on this material is Ronald Hill, Assistant General Counsel, Office of the General Counsel, Food and Nutrition Division.

Whenever FNS proposes an amendment to its regulations, copies are available on the internet for comment by the regional offices, State directors, local school food service operators and other local officials and the general public.

Comments on proposed amendments are received from other public contacts, which include private citizens and advocacy groups. All comments are considered in the development of interim and final rules.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift was provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

States and local agencies are concerned about protecting the confidentiality of children’s eligibility information. The issuance of the regulation regarding disclosure of eligibility information is required by amendments to the Richard B. Russell National School Lunch Act by Public Law 103-448, Public Law 106-224, and Public Law 108-265. Prior to those amendments, program officials could only disclose children’s eligibility information with parental consent. With enactment of these laws, disclosure of children’s eligibility information for use other than to determine and verify eligibility for free and reduced price meals or free milk became a State and local decision. However, when the State agency or sponsor plans to use or disclose children’s eligibility information for non-program purposes, State agencies and sponsors are responsible for drafting the appropriate Privacy Act notice and ensuring that the notice complies with section 7(b) of the Privacy Act of 1974 (Disclosure of Social Security Number). Section 7 (b) of the Privacy Act of 1974 (P.L. 93-579, 5 U.S.C. 552a) requires that Federal, State or

local government agencies which request individuals to disclose their social security number be informed (1) whether that disclosure is mandatory or voluntary, (2) by what statutory authority or other authority each number is solicited, and (3) what uses will be made of the number. FNS encourages State and local agencies to work with the receiving agency officials to make the exchange of eligibility information as streamlined as possible. Additionally, FNS has issued prototype materials for use by states and locals to minimize the burden associated with disclosing information.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no questions of a sensitive nature included in this clearance.

**12. Provide estimates of the hour burden of the collection of information.**

Currently 246,660 burden hours are approved for #0584-0280.

The **reporting burden (223,835)** associated with this collection increases by 11,321 hours. Of these hours 107 is due to an adjustment from that previously approved under OMB #0584-0280 and 11,214 is due to a program change. The adjustment is due to a mathematical error in the calculation of the Estimated Total Manhours; and identifying burden hours as recordkeeping that should have been reporting. Therefore, we are requesting the reporting to be increased to 235,156.

<u>235,156 Burden Hour</u>	=	.426 Average Burden
552,283 Responses		Hour Per Response
 <u>552,283 Responses</u>	=	4.10 Average Annual
134,586 Respondents		Responses Per Respondent

The **current recordkeeping burden (22,825)** hours previously approved under OMB #0584-0280 is adjusted by subtracting 618 hours due to a mathematical error in the calculation of the Estimated Total Manhours and identifying burden hours as recordkeeping that should have been reporting. Therefore, we are requesting the recordkeeping be reduced to 22,207 hours.

<u>22,207 Burden Hour</u>	=	.081 Average Burden
275,383 Responses		Hour Per Response
 <u>275,383 Responses</u>	=	61.97 Average Annual
4,444 Respondents		Responses Per Respondent

- Reporting Burden Hours: 235,156
  - Recordkeeping Burden Hours: 22,207
- Total Burden Requested 257,363**

**PUBLIC COST**

To estimate public cost, FNS made the assumption that the “typical” State or local program operator incurs paperwork cost at a rate of \$13.57 per hour. FNS also assumed that an appropriate portion of State level cost would be funded from State Administrative Funds (SAF). Therefore, FNS computed SA compliance cost at a rate of \$1.80 per hour rather than \$13.57. Following is the estimate of burden for reporting and recordkeeping:

**Reporting**

SA Level	=	84,886 hours x \$1.80	\$152,794
Sponsor	=	68,603 hours x \$13.57	\$930,942
Camps\Sites	=	62,120 hours x \$13.57	\$842,968
Household	=	<u>19,547 hours</u> x 13.57	<u>\$265,252</u>
TOTAL	=	235,156 hours	\$2,048,061

**Recordkeeping**

SA Level	=	432 hours x \$1.80	\$ 778
Sponsor Level	=	21,534 hours x \$13.57	\$ 292,216
Camps\Sites	=	<u>241 hours x \$13.57</u>	<u>\$ 3,270</u>
TOTAL	=	22,207 hours	\$ 296,264

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.**

There are no annual start-up or maintenance costs.

**14. Provide estimates of annualized cost to the Federal government.**

Federal Cost:

The Federal cost of collecting and processing data under Part 225, issuing Program regulations, and monitoring compliance with the regulations is presented below. FNS used the following procedure to estimate this cost:

- (i) FNS identified functions performed by FNSRO and Headquarters staff that benefits the SFSP and obtained estimates of the total number of staff hours spent performing these functions. For Headquarters and FNSRO, staff obtained estimates from personnel who perform the functions.
- (ii) FNS made the assumption that 45 percent of SFSP staff hours are spent monitoring reporting, and 55 percent are spent on recordkeeping.
- (ii) The remainder of the computations is presented below:

	Reporting	Recordkeeping
Salaries	\$62,162	\$56,312

**Total Annual Federal Cost = \$118,474**

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.**

The reporting burden (223,835) associated with this will collection increases by 11,321 hours, of which 107 hours are due to an adjustment from that previously approved under OMB #0584-0280 and 11,214 is due to a program change under the rule Disclosure of Children’s Free and Reduced Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs” that amends the regulations at 7 CFR Part 225. “Specifically, the rule stipulates that State agencies and school food authorities that plan to use or disclose information about children eligible for free or reduced price meals or free milk in ways not permitted by law must obtain written consent from the child’s parent or guardian prior to the use or disclosure of eligibility information. This provision is a program change and increases the reporting burden by 11,214. The adjustment is due to a mathematical error in the calculation of the Estimated Total Manhours for State agencies and identifying burden hours as recordkeeping that should have been reporting. FNS is requesting approval of 235,156 burden hours for reporting.

The recordkeeping hours (22,825) decreased of 618 hours due to an adjustment. The adjustment is due to identifying burden hours as recordkeeping that should have been reporting requirements. FNS is requesting approval of 22,207 burden hours for recordkeeping.



In Summary, FNS is requesting a total of 257,363 hours for this collection. An increase of 11,214 hours is due to program changes and -511 are due to adjustments. This would increase the overall burden by 10,703 hours from the currently approved burden of 246,660 hours.

**16. For collections of information whose results will be published, outline plans for tabulation, statistical analysis, and publication.**

The Child Nutrition Division does not collect information for projects, which would result in publication for statistical use.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

We are not seeking approval concerning the display of the expiration date.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.**

There are no exceptions to the certification statement.