

SUPPORTING STATEMENT
OMB No. 0584-0303
FOOD STAMP PROGRAM REGULATIONS,
PART 275 – QUALITY CONTROL

A. Justification

1. Explain the circumstances that make the collection of information necessary.

The information collection covers the sample plan, arbitration, and good cause aspects of the Food Stamp Program (FSP) Quality Control (QC) System.

a. Reporting

Section 11(d) of the Food Stamp Act of 1977, as amended (the Act), requires each State agency administering the FSP to submit a plan of operation specifying the manner in which the program is conducted. In addition to certain specific areas of program administration, Section 11(e) of the Act authorizes the inclusion of other provisions as required by regulation.

The legislative basis for the operation of the FSP QC system is provided by Section 16 of the Act. Section 16 requires the U.S. Department of Agriculture (USDA) to establish a system that enhances payment accuracy and improves administration by determining payment error rates, liabilities and performance bonuses. Section 16(c) allows the Department to require a State agency to report any data deemed necessary for determining these factors. Two of the items covered by this burden, the sampling plan and arbitrations of State-Federal differences must be completed prior to determination of the payment and negative error rates, the national average payment and negative error rate, any liability amounts established and applicable performance bonuses awarded.

Part 275 of the FSP regulations implements the QC legislative mandate. The QC system is designed to provide a basis for determining each State agency's error rate through a review of a sample of food stamp cases. QC data serves as an objective measure of program operations at the State level and is essential to the determination of a State agency's entitlement to a performance bonus or liability for excessive overpayments.

To help ensure that QC data is reliable and unbiased, paragraph 275.11(a) requires each State agency to submit a QC sampling plan to Food and Nutrition Service (FNS) for approval. The sampling plan is a part of the inclusive State Plan of Operation.

When a State agency disagrees with a Federal QC finding on an individual case selected for review, the regulations at 7 CFR 275.3(c)(4) provide that the State agency may request that the dispute be arbitrated by a FNS Arbitrator, subject to some limitations.

Paragraph 275.23(e)(7) provides a process for a State agency to seek relief from a QC liability that would otherwise be levied on the basis that the State agency had good cause for not achieving the payment error rate below the tolerance level. State agencies desiring such relief must file an appeal with the USDA's Administrative Law Judge in accordance with the procedures established under Part 283.

b. Recordkeeping:

Section 11(a) of the Act mandates that State agencies shall keep "...such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this Act and the regulations issued pursuant to this Act..." The Act also specifies that these records "shall be preserved for such period of time, not less than three years, as may be specified in the regulations issued pursuant to this Act." The FSP regulations at 7 CFR 272.1(f) specify that program records are to be retained for a period of three years from the month of origin.

2. Indicate how, by whom, and for what purpose the information is to be used.

Sampling Plan: All State agencies are required to select a QC sample of households from two universes:

- (a) The active universe of households that are participating in the FSP; and
- (b) The negative universe of households whose participation was denied, suspended or terminated.

Each State agency is responsible for the design and selection of the QC samples, subject to the regulations at 7 CFR 275.11 and FNS approval. Each State agency must submit a QC sampling plan and subsequent modifications of sample design, frame, or procedures to FNS. The sampling plan must include a complete description of the frame, the method of sample selection, and methods for estimating characteristics of the population and sampling errors. In addition, the sampling plan must include a description of its relationship, if any, to other Federally mandated programs. All sampling procedures used by the State agency, including frame composition and construction, must be fully documented and available for review by FNS.

Arbitration Process: The arbitration process at 7 CFR 275.3 (c)(4) provides a process for State agencies to dispute individual case findings when the State disagrees with Federal findings. State agencies may request arbitration for individual QC cases by filing this request within 20 calendar days of the date of receipt by the State agency of regional office findings. State agencies are required to submit all required documentation to the FNS National Arbitrator. The arbitration process provides due process protection for the State agency for individual QC cases that are selected for Federal review. If the National Arbitrator rules that the findings in the individual case should be changed, this change

may have an impact on the calculation for the State agency's payment and negative error rate and on the national average payment or negative error rate.

Under the Good Cause process at 7 CFR 275.23(e)(5), a State agency may seek relief from a QC liability claim on the basis that the State agency had good cause for not achieving a payment error rate below tolerance. A State agency desiring such relief must file an appeal with the USDA's Administrative Law Judge in accordance with the procedures under Part 283. This process provides due process protection to the State agency for the QC liability. The outcome of this request could affect the validity and amount of a QC liability.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques.

FNS is committed to comply with the requirements under the E-Government Act of 2002 in the implementation of information technologies in delivery of services to the public. This specific type of collection is not amenable to automated, electronic, mechanical or other technological techniques or other forms of information technology. However, States are encouraged to automate their sampling plans but are not mandated to do so.

4. Describe any efforts to identify duplication.

The sample plan, arbitration and good cause processes are unique to the QC system and are not found elsewhere in the FSP. As such, duplication is not a potential issue with this information collection.

5. If the collection of information involves small business or other small entities, describe any methods used to minimize burden.

This collection does not involve any small businesses or other small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Sampling Plan: Less frequent collection could allow incorrect or inappropriate State agency sampling methodology to go undetected. Without a QC sampling plan there would be no assurance that State agencies operate their QC system in compliance with the Act and the FSP regulations. This can potentially introduce a bias and adversely affect the integrity of the QC system. There are no technical or legal obstacles to reducing the burden for the sampling plan.

Arbitration and Good Cause: Less frequent reporting or the elimination of the reporting burdens for the arbitration and good cause processes would not be in the interest of the State agencies. It would affect their ability to challenge individual case findings and QC system liabilities levied against them. Because of due process protections that these

processes provide, there could potentially be technical or legal obstacles to eliminating these burdens.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner that is inconsistent with 5 CFR 1320.6.

There are no special circumstances that require collection inconsistent with 5 CFR 1320.6.

8. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice.

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.

Consultation with representatives of those from whom information is to be obtained or those who must complete records should occur at least every three years.

The Federal Register Notice for these aspects of the QC system was published on March 23, 2007, (72 FR 13737). A copy of this Notice is attached. Two of the three public comments that were received by FNS in response to this notice were from State agencies and one was from a concerned individual. One commenter did not address any relevant information pertaining to the information collection activities for which public comment was sought. The other two comments received address the total estimated burden hours associated with the sampling plan and/or the arbitration processes.

One commenter estimated its State spends approximately 3 hours annually to research, prepare, validate and submit a sampling plan. Since the proposed total annual reporting burden for the sampling plan is already estimated as 5 hours per State agency, the comment has been noted but no action will be taken.

Two comments addressed the burden associated with the collection of information for the arbitration process. One commenter estimated that it takes 10 hours per arbitrated case and another commenter estimated that it takes 24-45 hours per arbitrated case. Our original estimate was 10 hours based on our estimate of past practices. Given the longer length of time suggested by the second comment (24-45 hours), we believe that it would be more accurate to increase our original estimate. We are therefore increasing the estimated time needed to prepare a case for arbitration from the estimated 10 hours to 24 hours per response. We believe that this revised estimate takes into account both the high and the low estimates received by the two commenters.

FNS participates in informal discussions with the National Association for Program Information and Performance Measurement (NAPIPM), American Public Hunger Services Association (APHSA) and other interested organizations and individuals. FNS

also meets regularly with technical advisory groups where changes are discussed as well as hosting and attending periodic regional and national conferences.

9. Explain any decision to provide any payment or gift to respondents.

No gifts or payments were made to respondents.

10. Describe any assurance of confidentiality provided to respondents.

The Department complies with the Privacy Act of 1974.

11. Provide additional justification for any questions of a sensitive nature.

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

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

Indicate the number of respondents, frequency of response and annual hour burden.

Provide estimates of annualized costs to respondents for the hour burdens for collection of information.

Sampling Plan: Fifty-three State agencies are required to have an acceptable sampling plan in place for each annual reporting period. The number of annual responses from each State agency will vary depending upon the revisions needed in a State agency's sampling plan. We estimate that one revision will be needed per State agency per year.

FNS estimates that the number of hours per response will vary from 1 to 20 hours, depending upon the extent of the revision to the sampling plan. If the current sampling plan meets the State's needs and includes all required information as identified in the FSP regulations, State agencies may simply submit the existing plan. Otherwise, the plan must be modified as necessary. Before the initial submission, the respondent burden is dependent upon the frequency and magnitude of the proposed changes to an approved plan. Based on operational experience, FNS estimates an average annual burden of approximately 5 hours per response resulting in a total burden of 265 hours (5 hours x 53 responses).

In addition, all 53 State agencies are required to maintain records of their sampling plans for the recordkeeping requirement. We estimate that the burden is 1½ minutes (0.0236 hours) per record resulting in a total annual burden of 1.25 hours (0.0236 hours x 53 responses).

We estimate the total annual burden of the collection of sampling plan information to be 266.25 hours. This burden was arrived at by adding together the estimated reporting burden plus the estimated recordkeeping burden (265 hours + 1.25 hours).

Arbitration: Fifty-three State agencies participate in the QC System. The number of annual requests for arbitration of Federal findings for cases in which the State agency disagrees with the Federal finding will vary from year to year and by State agency. On average, we estimate that fourteen State agencies will request arbitration of 2.5 cases per year. This estimate is based on the actual number of cases arbitrated over the past 3 years and the actual number of States that submitted requests for arbitration.

The number of hours per arbitrated case will vary depending on how long the State generally takes to prepare a case and the complexity of the case. Based on operational experience with these cases and the comments received, we estimate that it takes an average of 24 hours per response. This results in an estimated reporting burden relating to the arbitration process of 840 hours (2.5 annual responses x 24 hours x 14 total respondents).

In addition, each State agency is required to maintain records for the recordkeeping requirement. On average, we estimate that fourteen State agencies will maintain records of 2.5 cases per year and the time it takes is 1½ minutes (0.0236 hours) per record resulting in a total annual burden of 0.83 hours (2.5 annual responses x 0.0236 hours x 14 total respondents).

We estimate the total annual burden of the collection of information related to the arbitration process to be 840.83 hours (840 hours + 0.83 hours). This burden is arrived at by adding together the estimated reporting burden plus the estimated recordkeeping burden.

Good Cause: Fifty-three State agencies participate in the QC System. The number of good cause requests by State agencies will be driven by the number of State agencies that are subject to QC liabilities and fail to pay or settle the claim. Based on operational experience we estimate that only one State agency will submit one good cause request per year. The number of hours for preparing a good cause request could vary greatly since the grounds for the request will differ according to State circumstances. We estimate a State agency will take about 160 hours to process a good cause request.

In addition, each State agency is required to maintain records for the recordkeeping requirement. Based on operational experience we estimate that only one State agency will maintain one record per year. We estimate the burden is 1½ minutes (0.0236 hours) per record resulting in a total annual burden of 0.02 hours (1 response x 0.0236 hours).

We estimate the total annual burden of the collection of information to be 160.02 hours. This burden is arrived at by adding together the estimated reporting burden plus the estimated recordkeeping burden (160 +0.02 hours).

Reporting and Recordkeeping breakdown:

a. Total Annual Reporting Burden: 1,265 hours

| Type of Respondent | Requirement | Number of Annual Responses | Hours Per Response | Total Respondents | Total Burden Hours |
|-------------------------------|---------------|----------------------------|--------------------|-------------------|--------------------|
| Reporting | | | | | |
| State Agency | Sampling Plan | 1 | 5 | 53 | 265 |
| | Arbitration | 2.5 | 24 | 14 | 840 |
| | Good Cause | 1 | 160 | 1 | 160 |
| Total Reporting Burden | | | | | 1,265 |

b. Total Annual Recordkeeping Burden: 2.10 hours

| Type of Respondent | Requirement | Number of Annual Recordkeepers | Hours Per Recordkeeping | Total Number of Records | Total Burden Hours |
|-----------------------------------|---------------|--------------------------------|-------------------------|-------------------------|--------------------|
| Recordkeeping | | | | | |
| State Agency | Sampling Plan | 53 | 0.0236 | 1 | 1.25 |
| | Arbitration | 14 | 0.0236 | 2.5 | 0.83 |
| | Good Cause | 1 | 0.0236 | 1 | 0.02 |
| Total Recordkeeping Burden | | | | | 2.10 |

c. Total Annual Burden: 1,267 hours

Summary of Burden

| No. of Respondents | Est. Annual Responses Per Respondent | Est. Total Annual Responses | Est. Hours Per Response | Total Annual Burden |
|--------------------|--------------------------------------|-----------------------------|-------------------------|---------------------|
| 53 | 2.68 | 142 | 8.92 | 1,267 |

d. Annualized Reporting Costs - States

Sampling Plan: The estimated annual cost to States for the burden for collection of information is \$2,532.08. This cost was estimated as outlined below:

| | | | |
|---|-------------------|---|-----------------------------------|
| | 53 | = | Number of sampling plans per year |
| x | 5 | = | Number of hours per response |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate State share of costs |
| | <u>\$2,532.08</u> | | Total State Reporting Costs |

Arbitration: The estimated annual cost to States for the burden for collection of information is \$8,026.20. This cost was estimated as outlined below:

| | | | |
|---|-------------------|---|--------------------------------------|
| | 35 | = | Number of arbitration cases per year |
| x | 24 | = | Number of hours per response |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate State share of costs |
| | <u>\$8,026.20</u> | | Total State Reporting Costs |

Good Cause: The estimated annual cost to States for the burden for collection of information is \$1,528.80. This cost was estimated as outlined below:

| | | | |
|---|-------------------|---|--|
| | 1 | = | Number of good cause requests per year |
| x | 160 | = | Number of hours per response |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate State share of costs |
| | <u>\$1,528.80</u> | | Total State Reporting Costs |

Cumulative Total for Sampling Plan, Arbitration and Good Cause: The cumulative estimated annual reporting cost to States for the burden for collection of information for the Sampling Plan, Arbitration, and Good Cause is \$12,087.08.

e. Annualized Recordkeeping Costs – States

Sampling Plan: The estimated annual cost to States for the burden for collection of information is \$11.95. This cost was estimated as outlined below:

| | | | |
|---|----------------|---|-----------------------------------|
| | 53 | = | Number of recordkeepings per year |
| x | 0.0236 | = | Number of hours per recordkeeping |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate State share of costs |
| | <u>\$11.95</u> | | Total State Recordkeeping Costs |

Arbitration: The estimated annual cost to States for the burden for collection of information is \$7.89. This cost was estimated as outlined below:

| | | | |
|---|---------------|---|-----------------------------------|
| | 35 | = | Number of recordkeepings per year |
| x | 0.0236 | = | Number of hours per recordkeeping |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate State share of costs |
| | <u>\$7.89</u> | | Total State Recordkeeping Costs |

Good Cause: The estimated annual cost to States for the burden for collection of information is \$0.23. This cost was estimated as outlined below:

| | | | |
|---|---------------|---|------------------------------------|
| | 1 | = | Number of recordkeepings per year |
| x | 0.0236 | = | Number of hours per recordkeeping |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate States' share of costs |
| | <u>\$0.23</u> | | Total State Recordkeeping Costs |

Cumulative Total for Sampling Plan, Arbitration and Good Cause: The cumulative estimated annual recordkeeping cost to States for the burden for collection of information for the Sampling Plan, Arbitration, and Good Cause is \$20.07.

Cumulative Annualized Cost for the Sampling Plan, Arbitration and Good Cause: We estimate the total annualized cost to the States for the Sampling Plan, Arbitration, and Good Cause to be \$12,107.15.

Hourly income is based on rates published in Department of Labor Bulletin 2581, "National Compensation Survey: Occupational Wages in the United States," dated August 2006.

f. Annualized Reporting Costs - Applicants

Sampling Plan, Arbitration and Good Cause: None

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

Sampling Plan, Arbitration and Good Cause: There are no start-up or annualized maintenance costs.

14. Provide estimates of annualized costs to the Federal government.

Sampling Plan: We estimate the total annualized cost to the Federal government to be \$2,544.03. This cost was arrived at by adding together the estimated total Federal reporting costs + the estimated Federal recordkeeping costs as outlined below.

Arbitration: We estimate the total annualized cost to the Federal government to be \$8,034.09. This cost was arrived at by adding together the estimated total Federal reporting costs + the estimated Federal recordkeeping costs as outlined below.

Good Cause: We estimate the total annualized cost to the Federal government to be \$1,529.03. This cost was arrived at by adding together the estimated total Federal reporting costs + the estimated Federal recordkeeping costs as outlined below.

Cumulative Annualized Cost for the Sampling Plan, Arbitration and Good Cause: We estimate the total annualized cost to the Federal government for the Sampling Plan, Arbitration, and Good Cause to be \$12,107.15. This estimate was derived by adding together the individual annualized cost estimates for the Sampling Plan, Arbitration, and Good Cause which were determined in the calculations below.

a. Annualized Reporting Costs - Federal:

Sampling Plan:

| | | | |
|---|-------------------|---|------------------------------------|
| | 53 | = | Number of sampling plans per year |
| x | 5 | = | Number of hours per reporting |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate Federal share of costs |
| | <u>\$2,523.08</u> | | Total Federal Reporting Costs |

Arbitration:

| | | | |
|---|-------------------|---|--------------------------------------|
| | 35 | = | Number of arbitration cases per year |
| x | 24 | = | Number of hours per reporting |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate Federal share of costs |
| | <u>\$8,026.20</u> | | Total Federal Reporting Costs |

Good Cause:

| | | | |
|---|-------------------|---|--|
| | 1 | = | Number of good cause requests per year |
| x | 160 | = | Number of hours per reporting |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate Federal share of costs |
| | <u>\$1,528.80</u> | | Total Federal Reporting Costs |

b. Annualized Recordkeeping Costs - Federal:

Sampling Plan:

| | | | |
|---|----------------|---|------------------------------------|
| | 53 | = | Number of recordkeepings per year |
| x | 0.0236 | = | Number of hours per recordkeeping |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate Federal share of costs |
| | <u>\$11.95</u> | | Total Federal Recordkeeping Costs |

Arbitration:

| | | | |
|---|---------------|---|------------------------------------|
| | 35 | = | Number of recordkeepings per year |
| x | 0.0236 | = | Number of hours per recordkeeping |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate Federal share of costs |
| | <u>\$7.89</u> | | Total Federal Recordkeeping Costs |

Good Cause:

| | | | |
|---|--------------|---|------------------------------------|
| | 1 | = | Number of recordkeepings per year |
| x | 0.0236 | = | Number of hours per recordkeeping |
| x | \$19.11 | = | Cost per hour |
| x | 50% | = | Approximate Federal share of costs |
| | <u>\$.23</u> | | Total Federal Recordkeeping Costs |

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

There was a decrease in the burden of 807 hours. Even though the hours per respondent increased for an arbitration from 10 hours to 24 hours, a decrease was realized due to the adjustment to the number of arbitrations from 164 to 35. This decrease is a result of State agencies more frequently concurring with FNS findings. This adjustment was based on the average number of responses actually received for the FY 2003, 2004 and 2005 QC review periods. The end result yields a change in the total annual burden from 2,074 hours to 1,267 hours.

16. For collection of information whose results will be published, outline plans for tabulation and publication.

There are no plans to publish the data 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 to not display the expiration date for OMB approval of the information collection.

18. Explain each exception to the certification statement identified in Item 19.

No exceptions are noted.

B. Collections of Information Employing Statistical Methods

The collection of information does not employ statistical methods.