

## Legal Authority

### Need for Monthly Financial and Participation Data

The Food and Nutrition Service (FNS) of USDA administers the WIC Program by awarding cash grants to State agencies (generally State health departments). The State agencies award sub-grants to local agencies (generally local health departments and nonprofit organizations) to deliver program benefits and services to eligible participants. This administrative structure follows section 17(c)(2) of the CNA.

State agencies complete the FNS-798 to comply with two separate legislative requirements. The first, found in section 17(f)(4) of the CNA, provides that “State agencies shall submit monthly financial reports and participation data to the Secretary.” The second, contained in section 17(f)(1)(C)(vi) of the CNA, requires each State agency to submit to the Secretary “a plan to expend funds to carry out the program during the relevant fiscal year.” The FNS-798 captures the required data and serves as an operational plan for State agencies. A reporting format that can be used as an operational plan is needed because WIC grant funds are used to serve all eligible persons. Consequently, State and local agency managers must support their caseloads within their authorized grants. FNS must continuously forecast and reevaluate State agencies’ funding needs, make timely funding and other management decisions, and assist State agencies with caseload and funds management.

FNS and State agencies need monthly financial and participation data that identifies: 1) the projected and actual number of participants; 2) the projected and actual cost to serve these participants; and 3) the amount the State agency expects to have available for this purpose at any given time during the fiscal year.

### Need for Annual Closeout Data

Besides meeting the monthly reporting requirements, the final monthly FNS-798 and the annual FNS-798A serve as State agency closeout reports for the Federal fiscal year. Non-entitlement grant programs, such as the WIC Program, are required to undergo an annual closeout and reconciliation of grants (7 CFR 3016.23(b)). As such, FNS is required to determine the portion of the fiscal year’s WIC grant funds that: 1) has been disbursed to each State agency; 2) expended by the State agency for program costs; and 3) remains unspent and is available for recovery and reapportionment. State agencies must therefore “submit to FNS, within 120 days after the end of the fiscal year, final fiscal year closeout reports” (7 CFR 246.17(b)(2)). OMB approved the FNS-798 and FNS-798A to replace the FNS-227 with Addendum (FNS-227A) as WIC’s substitute for the revised SF-269 (OMB Number 0584-0427). WIC continues to need the FNS-798 and FNS-798A as a substitute form for the revised SF-269, because the revised SF-269 only captures total program costs.

To conduct closeout, FNS needs the following data: 1) total program funds and costs divided into WIC's two grant components (food (42 U.S.C. 1786(h)(1)(C) (i)) and nutrition services and administration (42 U.S.C. 1786(h)(1)(A)); 2) State agencies' decisions to shift a portion of their funds between grant components; 3) State agencies' decisions to shift WIC grant funds between Federal fiscal years; and 4) data required to determine whether legislatively mandated spending requirements (e.g., the minimum nutrition education expenditure) are met.

Except as allowed by 42 U.S.C. 1786(h)(5)(A), 42 U.S.C. 1786(f)(21), and 7 CFR 246.14(a)(2), food funds must be applied to food costs and nutrition services and administration (NSA) funds must be applied to NSA costs. Both FNS and State agencies must observe this statutorily prescribed dichotomy throughout the grant cycle. Thus, a report that captures the portion of total program funds and costs pertaining to food and NSA respectively is needed. State agency decisions to shift funds between the food and NSA grant components also must be captured to ensure that such decisions do not exceed levels allowed by statute or regulations.

The State agencies' authority to shift WIC grant funds between Federal fiscal years is unique to the WIC Program and is established by 42 U.S.C. 1786(i). The availability of spending options complicates financial reporting and closeout of the WIC grants. FNS needs to know a State agency's spending options to determine: 1) whether the State agency's report year WIC Program costs are supported with grants awarded for the prior and/or following fiscal year; and 2) the status of the report year grant awarded to each State agency, including whether the grant also supported costs of the prior and/or following fiscal years.

FNS needs the FNS-798A to determine if each State agency has met the statutory nutrition education and breastfeeding promotion and support minimum expenditure requirements found in 42 U.S.C. 1786(h)(3). The FNS-798A shows how much of each State agency's total NSA expenditures were made for nutrition education and for breastfeeding promotion and support activities.