

SUPPORTING STATEMENT FOR

0584-0025

*Civil Rights Title VI- Collection Reports
for FNS 191 and FNS 101*

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A. Justification

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

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs receiving Federal financial assistance. The Department of Justice (DOJ) regulations, cited at Title 28 of the Code of Federal Regulations (CFR), Section 42.106(b), require all Federal Departments to provide for the collection of racial/ethnic data and information from applicants for and recipients of Federal assistance sufficient to permit effective enforcement of Title VI.

In order to comply with the Civil Rights Act, DOJ regulations and the Department's nondiscrimination policy and regulations (7 CFR Part 15), the Department's Food and Nutrition Service (FNS) requires State agencies to submit data on the racial/ethnic categories of persons receiving benefits from FNS food assistance programs. The two forms hereby presented for clearance were developed for use in reporting this data. These forms are used by local agencies operating the Commodity Supplemental Food Program (CSFP), the Food Distribution Program on Indian Reservations (FDPIR), and the Supplemental Nutrition Assistance Program (SNAP) (formerly the Food Stamp Program). The requirement for operators of these programs to collect and report racial/ethnic information to FNS is found in the CFR for CSFP at 7 CFR Part 247, and for SNAP at 7 CFR Part 272; the requirement for the FDPIR is found in FNS Handbook 501. Copies of these legislative and regulatory references are provided.

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

All respondents must submit the form in order to receive benefits and comply with applicable legislation. If a respondent does not respond, the respondent is subject to withholding of administrative funds or termination from program participation.

The FNS-191 is completed by local agencies based on self-identification by the applicant or when the information is not voluntarily provided by the applicant, visual identification is acceptable. The form requests the actual number of individuals in each racial/ethnic category for one month of the year (April). The reports are used in the following manner.

- (1) Sent to the Department's Office of Civil Rights to satisfy the regulatory requirement for annual participation data. The Department includes this data in an annual USDA Equal Opportunity Report.
- (2) Compared to Census data by FNS Civil Rights/EEO staff to identify any minority participation trends or disparities which need follow-up.
- (3) Reviewed by Regional FNS field review staff prior to conducting local agency compliance reviews as well as in selecting areas for review.
- (4) The title lines for the FNS-191 (name, address, telephone number, and number of sites) are used to compile a local agency directory which serves as the primary source of data on number and location for local agencies and number of sites operating CSFP.

The FNS-101 is completed by SNAP and FDPIR local agencies based on self-identification by the participant for FDPIR, and self-identification or when the information is not voluntarily provided by the household, visual identification of the race or ethnicity of participants for SNAP is acceptable. The form requests the actual number of SNAP and FDPIR households in each racial/ethnic group for one month of the year

(July). The reports are used in the same manner as outlined in items (1 through 3) listed above for the FNS-191.

3. Use of Information Technology and Burden Reduction.

FNS makes every effort to comply with the E-Government Act, 2002 by providing electronic submission in lieu of paper where feasible. While FNS does not require State and local agencies to integrate current information technology into their management system, it does encourage them to do so.

Our current information system, the Food Programs Reporting System (FPRS) allows all forms to be reported electronically for all programs. State and local agencies have the option to report electronically or via paper submission for all forms. In FY 2008, approximately 90 percent of the total respondents in this submission reported electronically to FNS' electronic reporting system, the Food Programs Reporting System (FPRS), <https://fprs.fns.usda.gov/>.

4. Efforts to Identify Duplication and Use of Similar Information.

This collection is not duplicated. FNS acknowledges that the Department of Health and Human Services (DHHS) and the Census Bureau has a similar collection. Both DHHS and Bureau of the Census collects annual racial/ethnic participation data for the Temporary Assistance to Needy Families (TANF) program; however, the data does not identify whether or not the beneficiaries are CSFP, FDPIR, or SNAP participants. FNS needs discrete data to monitor its own programs.

5. Impacts Small Businesses or Other Small Entities.

The information being collected is a statutory requirement that leaves the Department no discretion to minimize the burden for smaller local agencies.

6. Consequences of Collecting the Information Less Frequently.

Eliminating the collection of racial/ethnic data would violate Title VI of the Civil Rights Act of 1964 and DOJ regulations at 28 CFR 42.107(b). It would also mean that FNS could not track racial/ethnic data for program evaluation.

7. Special Circumstance Relating to the Guideline of 5 CFR 1320.5

There are no special circumstances.

8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside Agency.

A notice was published October 17, 2008 in 73 FR 61778. No comments were received.

Consultation with users of the FNS-191 and FNS-101 has been a continuous process over the years leading up to FNS implementing the revised data collection for FY 2007. State agencies commented on the proposed data collection and reporting and those comments were considered by FNS in developing the final rule for SNAP published in 2005 and the reporting implemented in FY 2007 for all three programs. It should also be noted that

the revised data elements that FNS adopted for FY 2007 were developed by OMB based on public comment.

9. Explanation of Any Payment or Gift to Respondents.

The Department has no plans to provide payments or gifts to respondents.

10. Assurance of Confidentiality Provided to Respondents.

No assurance of confidentiality provided to respondents.

11. Justification for Sensitive Questions.

There are no questions of a sensitive nature.

12. Estimates of Hour Burden Including Annualized Hourly Costs.

The current instruments FNS-191 and FNS-101 (Attachment A) was implemented in FY 2007.

FNS anticipates that there will approximately 5,726 burden hours used for this data collection. Each respondent must submit one report annually, covering a 1 month period. The State Local or Tribal agency offices will collect the information and report participation data to FNS for the three programs involved in this data collection activity. The number of respondents was determined based on FY 2008 reporting. Figures were based on FY 2008 reporting period. One hundred and forty-four (144) CSFP local agencies will complete the FNS-191; two-thousand, six hundred and eight (2,608) SNAP

respondents and one-hundred and eleven (111) FDPIR respondents will complete the FNS-101. The Bureau of Labor Statistics, Occupational Employment and Wages May

2007, <http://www.bls.gov/oes/current/oes211093.htm> the hourly wage rate for State, Local and Tribal agencies data clerk is \$16.92. The estimated annual burden and cost to respondents are as follows:

Table A12.1: Reporting Burden Estimates

AFFECTED PUBLIC	FORMS	NUMBER OF RESPONDENTS	NUMBER OF ANNUAL REPORTS	TOTAL ANNUAL RESPONSES	TIME PER RESPON. (HRS)	ANNUAL BURDEN HOURS	HOURLY WAGE RATE	COST TO PUBLIC
REPORTING BURDEN								
STATE/LOCAL & TRIBAL GOVERNMENT AGENCIES	FNS-191	144	1	144	2	288	\$ 16.92	\$ 4,872.96
	FNS-101	2,719	1	2,719	2	5,438	\$ 16.92	\$ 92,010.96
Total Burden Estimates		2,863.00		2,863		5,726	\$ 16.92	\$ 96,883.92

Reporting Using the Current Forms

	<u>FNS-191</u>	<u>FNS-101</u>
1. State and local government cost @ \$16.92/per staff hour	\$4,873	\$92,011
2. Less Federal reimbursement	4,873	46,944 @ 75% for FDPIR & 50% for SNAP
3. Net cost to State and local government	0	45,066
Respondent Cost	0	45,066= \$45,066

The estimate of respondent cost is based on the burden estimates developed in 12(a) above. Functions performed by State and local agency staff are valued at \$16.92 per staff hour.

13. Estimates of Other Total Annual Cost Burden to Respondents or Record Keepers.

There are no capital/start-up costs associated with the current information collection.

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

The annual cost to the Federal Government to collect and use the data for the three programs is estimated at \$107,541 for FY 2009. This cost includes (1) the cost of printing reporting forms; (2) reviewing and approving the data, data entry and retrieval, monitoring participation levels by race, and reporting to the Justice Department; (3) automated system costs; and (4) the Federal share of State agencies' burden costs to report the data. These costs are operational costs only. (See Federal Cost Estimate Table which breaks the cost down by form and program.)

15. Explain the reasons for any program changes or adjustments.

The proposed burden of 5,726 hours for FY 2009 is a decrease of 20 hours from the current burden of 5,746 hours. The adjustment is due to a decrease in the number of respondents from 2,873 to 2,863 that will complete a report.

16. Plans for Tabulation and Publication and Project Time Schedule.

FNS issues separate racial/ethnic reports for all three programs. These are the Commodity Supplemental Food Program Racial Ethnic Report, the Food Distribution Program Racial Ethnic Report, and the Supplemental Nutrition Assistance Program Racial Household Participation Report. In addition, the reports are sent to the Department's Office of Civil Rights to satisfy the regulatory requirement for annual participation data. The Department includes this data in an annual USDA Equal Opportunity Report.

17. Reason(s) Display of OMB Expiration Date is Inappropriate.

FNS is seeking approval to not display the expiration date of OMB approval on the FNS-191 and FNS-101. Upon the date of expiration, the two forms would require modification and would render the existing paper supply an economic loss. Although the information has not changed, each form would have to be revised and a new supply printed. While nearly 90 percent of the respondents in this submission chose to report these responses electronically, more than 200 respondents submit paper reports. Consequently, we must still print and maintain a substantial number of paper forms.

18. Exceptions to Certification for Paperwork Reduction Act Submissions.

There are no exceptions to the certification statement.