

**SUPPORTING STATEMENT FOR  
Civil Rights Title VI- Collection Reports  
for FNS 191 and FNS 101  
OMB Number: 0584-0025**

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**A. Justification**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

This is a revision of a currently approved information collection. 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 (Attachment A).

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

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. 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, 2002 to promote the use of technology. Federal agencies are to provide for electronic submission of information as an alternative to paper submission. State agencies have the authority to use information technology that best suits the needs of their individual or unique systems of operations to comply with this information collection.

- 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 Question 2.**

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

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

**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.**

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. Explain any special circumstances that would cause an information collection to be conducted in a manner:**
- requiring respondents to report information to the agency more often than quarterly;
  - requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
  - requiring respondents to submit more than an original and two copies of any document;
  - requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
  - in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
  - requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
  - that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5.

- 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 prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. 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. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior years. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

A notice was published February 9, 2012 in 77 FR 6775. 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. **Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.**

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

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

No assurance of confidentiality provided to respondents.

11. **Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature.

12. **Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

The current instruments FNS-191 and FNS-101 were implemented in FY 2007.

- A) **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

FNS anticipates that there will be approximately 5,854 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 2011 reporting. Figures were based on FY 2011 reporting period. One hundred and ninety-two (192) CSFP local

agencies will complete the FNS-191; two-thousand, six hundred and one (2,601) SNAP respondents and one-hundred and thirty-four (134) FDPIR respondents will complete the FNS-101.

**B) Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

The Bureau of Labor Statistics, Occupational Employment and Wages May 2011, <http://www.bls.gov/oes/current/oes211093.htm> the hourly mean wage rate for State, Local and Tribal agencies data clerk is \$17.00. 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 RESPONSE (HRS)	ANNUAL BURDEN HOURS	HOURLY WAGE RATE	COST TO PUBLIC
<b>REPORTING BURDEN</b>								
STATE/LOCAL & TRIBAL GOVERNMENT AGENCIES	FNS-191	192	1	192	2	384	\$ 17.00	\$ 6528
	FNS-101	2,735	1	2,735	2	5,470	\$ 17.00	\$ 92,990
<b>Total Burden Estimates</b>		<b>2,927</b>		<b>2,927</b>		<b>5,854</b>	<b>\$17.00</b>	<b>\$ 99,518</b>

**Reporting Using the Current Forms**

	<u>FNS-191</u>	<u>FNS-101</u>
1. State and local government cost @ \$17.00/per staff hour	\$6,528	\$92,990
2. Less Federal reimbursement	6,528	47,634 @ 75% for FDPIR & 50% for
SNAP		
3. Net cost to State and local		



government	0	47,634
<b>Respondent Cost</b>	<b>0</b>	<b>\$47,634 = \$47,634</b>

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 a mean of \$17.00 per staff hour.

**13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in questions 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.**

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

**14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

The annual cost to the Federal Government to collect and use the data for the three programs is estimated at \$114,035 for FY 2012. This cost includes (1) the cost of reviewing and approving the data, data entry and retrieval, monitoring participation levels by race, and reporting to the Justice Department; (2) automated system costs; and (3) the Federal share of State agencies' burden costs to report the data. These costs are operational costs only. See separate Cost Estimate Table which breaks costs down by form and program.

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

This is revision a currently approved collection. The proposed burden of 5,854 hours for FY 2012 is an increase of 128 hours from the current burden of 5,726 hours. The adjustment is due to an increase in the number of respondents from 2,863 to 2,927 that will complete a report.

**16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.**

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

This submission is not seeking OMB approval to not display the expiration date.

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

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.