

**CACFP National Disqualified List Forms - FNS-843, FNS-844**

**OMB CLEARANCE NUMBER 0584-XXXX**

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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 collection is a new collection for maintaining the National Disqualified List (NDL) of institutions, day care home providers, and individuals that have been terminated or otherwise disqualified from the Child and Adult Care Food Program (CACFP) participation. These federal requirements affect eligibility under the CACFP. State agencies will be required to enter data as institutions and individuals become disqualified from participating in the CACFP as recommended by the Office of the Inspector General Audit 27601-12-SF “Review of Management Controls for the Child and Adult Care Food Program.” The new collection is the result of a Food and Nutrition Service (FNS) web-based system constructed to update and maintain the list of disqualified institutions and individuals so that no State agency or sponsoring organization may approve any entity on the NDL to ensure the integrity of the Program.

Section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766), authorizes the CACFP. Section 243(c) of Public Law 106-224, the Agricultural Risk Protection Act of 2000, amended section 17(d)(5) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1766 (d)(5)(E)(i) and (ii)) by requiring the Department of Agriculture to maintain a list of institutions, day care home providers, and individuals that have been

terminated or otherwise disqualified from Child and Adult Care Food Program participation. The law also requires the Department to make the list available to State agencies for their use in reviewing applications to participate and to sponsoring organizations to ensure that they do not employ as principals any persons who are disqualified from the program. Forms FNS-843 and FNS-844 will be used to collect and maintain this data. This statutory mandate has been incorporated into § 226.6(c)(7) of the Program regulations.

- 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.**

The purpose of this collection is to comply with Section 243(c) of Public Law 106-224, the Agricultural Risk Protection Act of 2000, that amended section 17(d)(5) of the NSLA (42 U.S.C. 1766 (d)(5)(E)(i) and (ii)) by requiring the Department of Agriculture to maintain a list of institutions, day care home providers, and individuals that have been terminated or otherwise disqualified from Child and Adult Care Food Program participation. The law also requires the Department to make the list available to State agencies for their use in reviewing applications to participate and to sponsoring organizations to ensure that they do not employ as principals any persons who are disqualified from the program. Forms FNS-843 and FNS-844 will be used to collect and maintain this data. This statutory mandate has been incorporated into § 226.6(c)(7) of the Program regulations.

The data collected will be used to collect and maintain information on all individuals and institutions that have been disqualified and are therefore ineligible to participate in CACFP. By maintaining this list the Department ensures program integrity by making the list available to sponsoring organizations and State agencies so that no one disqualified can participate in CACFP.

- 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 complying with the E-Government Act of 2002. FNS has implemented an Internet component for the NDL. The Internet component allows 56 State agencies operating the CACFP to enter the information in the system and notify the FNS Regional office that a new submission has been entered. The Regional offices will approve or deny the submission. Sponsoring organizations will be able to search the system to ensure that new applicants have not been disqualified from the Program.

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

The current system is an Access Data Base which is inefficient, outdated and error prone. It is being replaced by a system that will reduce errors and ensure program integrity. The new system has been programmed to avoid duplicate and incorrect entries.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

Information being requested has been held to the minimum required for the intended use. Although smaller CACFP entities are involved in this data collection effort, they deliver the same Program benefits and perform the same function as any other CACFP entity. Thus, they maintain the same kinds of information on file. FNS estimates that 8 percent of our respondents are small entities, approximately 5 respondents.

**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.**

Regulations mandate that individuals or organizations terminated and disqualified from CACFP participation not be permitted to participate in CACFP. This information collection is needed to ensure State agencies and sponsoring organizations have access to the NDL to ensure program integrity. Without this data collection, State agencies and sponsoring organizations would have no way of knowing if an applicant has been disqualified from

participating in CACFP in another State.

**7. Circumstances that would cause an information collection to be conducted in a manner that is inconsistent with 5 CFR 1320.5:**

- **requiring respondents to report information to the agency more often than quarterly;**

The NSLA requires that a list of individuals and organizations be made available to State agencies and sponsoring organizations to ensure that no institution, individual or day care home provider previously disqualified participate in the Program. Submissions made in “real time” rather than monthly ensure that the NDL is current.

- **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 other 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, 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.**

A notice was published in the Federal Register on March 7, 2013, Volume 78, No. 45 on pages 14764-14770. The comment period closed on May 6, 2013. Two comments were received in response to the Agency's notice. One comment was unrelated to the proposed

data collection. One comment contained four recommendations to the form. The first recommendation was FNS-843 and FNS-844 be revised to collect and share “other names” used by responsible principals and individuals with all State agencies. FNS-844 did not have to be revised since “other names” used by responsible principals and individuals is included in the form; FNS revised FNS-843 to delete the word “legal” from the form for “other names” used by responsible principals and individuals. The second suggestion was to revise the comment fields within FNS-843 and FNS-844 to include specific instructions to the intended collection purpose. The comment fields within the forms are optional for use by the State agencies when adding institutions and individuals to the NDL; therefore FNS did not revise the forms to add instructions to the comment fields. The third recommendation was for institutions and individuals identified as disqualified by State agencies to be shared with other State agencies immediately upon FNS’ receipt of FNS-843 and FNS-844. The fourth recommendation was for USDA to distribute on a real-time basis the list of all disqualified institutions and individuals. This new collection satisfies both of these recommendations; once the forms are approved FNS will implement the new FNS web-based system constructed to update and maintain the list of disqualified institutions and individuals immediately upon submissions to the NDL and on a real-time basis.

- **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 form, and on the data elements to be recorded, disclosed, or reported.**



FNS consults with Regional offices regarding any proposed changes as the result of legislative, regulatory or administrative changes. Regional offices are in contact with State agencies, which provide feedback on FNS processes and procedures for this information collection.

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

No payment or gift will be provided to respondents.

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

The Department complies with the Privacy Act of 1974. E-authentication 2 clearance is required prior to granting access to the NDL. Data/Information/entries are stripped of Personally Identifiable Information data prior to sponsoring organizations viewing the data.

The SORN for this system, which is USDA/FNS-11: Information on Persons Identified as Responsible for Serious Deficiencies, Proposed for Disqualification, or Disqualified to Participate as Principals or Family Day Care Home Operators in the Child and Adult Care Food Program (CACFP), states that FNS will disclose

information from this system of records on individuals who have been disqualified from participation in the CACFP to every agency, whether State or FNS that administers the CACFP directly in the States or at the Federal level, and to every sponsoring organization participating in the program. The information will be available to the State agency directors and staff members, who make decisions about application approval or termination from participation in the program or, in the case of sponsoring organizations, make hiring decisions or submit applications for approval of family day care home operators to the State agency.

- 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 included in this data collection.

- 12. Provide estimates of the hour burden of the collection of information. The statement should include:**

- **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 burned estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

The number of State agencies that administer CACFP is 56. Based on an annual average, a State agency will place approximately 6 institutions and 22 individuals on the NDL for a total of 1,568 total responses. It is estimated that each response will take 0.50 hours. Estimated total reporting burden hours equals 784. The recordkeeping burden associated with maintaining documentation related to institutions and providers terminated for cause at the State agency level is captured under the Information Collection for the CACFP OMB Control Number 0584-0055, expiration date 8/31/2013. Therefore, there is no recordkeeping burden associated with this collection. The burden table reflects the estimated burden associated with this information collection.

**ESTIMATED ANNUAL BURDEN FOR CACFP National Disqualified List Forms FNS-843, FNS-844**

Respondent Type	Burden Activities	Section	Forms	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per Response	Annual Burden Hours
State Agency	The State agency creates, updates and maintains a list of institutions, family day care home provider and individuals who have been terminated or otherwise disqualified from CACFP participation.	226.6(c)(8)	FNS-843	56	6	336	0.50	168
			FNS-844	56	22	1,232	0.50	616
<b>State agency Level</b>				<b>56</b>	<b>28</b>	<b>1,568</b>	<b>0.50</b>	<b>784</b>

Reporting Totals								
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SUMMARY OF BURDEN (OMB #0584-XXXX)	
TOTAL NO. RESPONDENTS	56
AVERAGE NO. RESPONSES PER RESPONDENT	28
TOTAL ANNUAL RESPONSES	1,568
AVERAGE HOURS PER RESPONSE	0.50
TOTAL BURDEN HOURS	784

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

The estimate of respondent cost is based on the burden estimates from the U.S. Department of Labor, Bureau of Labor Statistics May 2012 Occupational and Wage Statistics (Occupational Group 25-0000) (<http://www.bls.gov/bls/wages.htm>). The hourly mean wage (education-related occupation) for functions performed by State and local agency staff are estimated at \$24.62 per staff hour.

$$\text{TOTAL COST TO PUBLIC} = 784 \text{ hours} \times \$24.62 \text{ per hour} = \$19,302.08$$

- 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 items 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 start-up or annual maintenance costs for this collection of information.

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

FNS identified CACFP NDL functions performed by FNS Regional office and Headquarters staff and obtained estimates of the total number of staff hours spent performing these functions. The estimated number of staff hours spent in a year dealing with NDL issues is 160. FNS computed the cost using the hourly wage of a GS 12/06.

$\$38.46 \times 160 \text{ hrs.} = \$6,153.60$  (estimated annualized cost to the Federal government)

Table A14.1 – Estimated Annualized Cost to the Federal Government

<b>Staff</b>	<b>Activity</b>	<b>Hours</b>	<b>Cost Estimate (hourly rate)</b>
FNS Staff: GS-12/Step 6	Reviewing/Editing Data Collection	160 hours x \$38.46	\$6,153.60

FNS HQ Staff: Using the Federal Salary Table 2012 hourly rate of \$38.46 for a GS-12/06

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or**

**14 of the OMB 83-I.**

This is a new collection. The new collection is the result of program changes by FNS to implement a web-based system in which State agencies will update and maintain the list of disqualified institutions and individuals. As a result of program changes, this collection will add 784 burden hours for CACFP reporting in the OMB information collection inventory.

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

This collection does not employ statistical methods and there are no plans to publish the results of this collection 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.**

FNS is 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."**

There are no exceptions to the certification statement.