

SUPPORTING STATEMENT for
Revision to OMB No. 0584-0293: Food Distribution Programs
for
Final Rule: Revisions and Clarifications in Requirements for the Processing of Donated Foods
(RIN 0584-AE38)

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7 CFR Parts 240, 247, 250, 251, 253, 254
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Terms of Clearance: In the Notice of Action dated May 24, 2017, the Office of Management and Budget (OMB) provided the following terms of clearance: “Terms of the previous clearance remain in effect. OMB is withholding approval at this time. Prior to publication of the final rule, the agency should provide a summary of any comments related to the information collection and their response, including any changes made to the ICR as a result of comments. In addition, the agency must enter the correct burden estimates.” While the Food and Nutrition Service (FNS) did receive 31 comments during the comment period for the proposed rule, “Revisions and Clarifications in Requirements for the Processing of Donated Foods (RIN 0584-AE38)”, none of the comments were relevant to the information collection, its cost, or its burden hours, so we do not any comments related to the information collection to summarize. As part of this information collection request, FNS will enter the correct burden estimates into OMB’s information collection inventory.

A1. 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 an existing information collection based on a final rule titled Revisions and Clarifications in Requirements for the Processing of Donated Foods, which substantially re-writes 7 CFR Part 250 Subpart C (RIN 0584-AE38). This rule was published on May 1st, 2018, and implemented the proposed rule, published on January 5th, 2017. The effective date for the rule is July 2, 2018. The rule revises and clarifies requirements in 7 CFR Part 250 for the processing of donated foods, in order to formalize processing options already being used in current practice, incorporate input received from processors and State and

local agencies administering child nutrition programs, and rewrite much of 7 CFR Part 250 Subpart C in a more user-friendly, “plain language” format. Further, this revision includes provisions inadvertently omitted in the currently approved information collection, substantially revises other provisions which were inaccurate, and updates all relevant aspects of information collection requirements in the package.

The Food Distribution Programs of the Department of Agriculture (USDA) assist American farmers and needy people by purchasing USDA donated foods and delivering them to State agencies that, in turn, distribute them to organizations for use in providing food assistance to those in need. The USDA donated foods help to meet the nutritional needs of: (a) children from preschool age through high school in USDA Child Nutrition Programs and in nonprofit summer camps, (b) needy persons in households on Indian reservations participating in the Food Distribution Program on Indian Reservations (FDPIR), (c) needy persons served by charitable institutions, (d) pregnant and breastfeeding women, infants, children, and elderly persons participating in the Commodity Supplemental Food Program (CSFP), (e) low-income, unemployed or homeless people provided foods through household distributions or meals through soup kitchens under the Emergency Food Assistance Program (TEFAP), (f) pre-school and school-age children, elderly, and functionally impaired adults enrolled in child and adult day care centers participating in the Child and Adult Care Food Program (CACFP), and (g) victims of Presidentially-declared disasters and other situations of distress.

Authorizing legislation allows the Secretary broad authority to establish regulatory provisions promoting accountability in the use of USDA donated foods by Federal, State, and private agencies. Below are the primary legal authorities:

- Section 4(b) of the Food and Nutrition Act of 2008, as amended (7 U.S.C. 2013(b))
- Sections 6, 14, and 17 of the National School Lunch Act, as amended (42 U.S.C. 1755, 1762a, and 1766)
- Section 4 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1733)
- The Emergency Food Assistance Act of 1983, as amended (7. U.S.C. 7501 et. seq.)
- Sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c note).

Effective administration of Food Distribution Programs is dependent on the collection and submission of information to FNS from State and recipient agencies. This information includes, for example, the number of households or meals served in the programs, the kinds of USDA donated foods most acceptable to recipients, the quantities of foods ordered and where the food is to be delivered, verification of the receipt of a food order, and the amounts of USDA donated foods in inventory.

Once the Office of Management and Budget (OMB) has reviewed this information collection request for the final rule and has notified the Food and Nutrition Service (FNS) of its decision, FNS will publish a notice in the Federal Register stating that OMB has reviewed the request and announcing OMB's action concerning it.

A2. Purpose and Use of the Information.

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.

The information reported and the records kept for purposes of review under 7 CFR Parts 240, 247, 250, 251, 253, and 254 are used by State and recipient agencies and FNS regional and headquarters offices for the purpose of administering USDA Food Distribution Programs. Depending on the information requirements, respondents will provide information with a frequency based on program requirements. Refer to Attachment 1 for further details. The collections are primarily mandatory for State, local, and Tribal Governments, and for Private for profit entities. The only collection that is necessary to obtain benefits is in the form of individual program recipient applications. Some of the information related to program participation will be shared with State governments. No new forms were added. Some previous collections were reduced in frequency.

See Attachment 1 (Burden Narrative) for a breakdown of the reporting and recordkeeping requirements contained in each of the relevant parts of Federal regulations (note that the forms associated with this ICR are also discussed in attachment 1). Each part is broken down into sections, with a description of the reporting or recordkeeping burden attached to each section.

A3. Use of information technology and burden reduction.

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.

The Food and Nutrition Service makes every effort to comply with E-Government Act of 2002. FNS encourages its State agency partners to offer electronic submission to participants whenever it is feasible. Currently all State agencies that provide commodities to schools and other FNS nutrition programs are using the Web Based Supply Chain Management System (WBSCM). Approximately 220 State and recipient agencies submit data to USDA electronically using WBSCM. Approximately forty-five percent of all annual responses are submitted via WEBSCM. This breaks down to:

- SLT reporting responses = approximately 1.7% of total responses;
- SLT recordkeeping responses = approximately 1.6% of total responses;
- PFP reporting responses = approximately 21% of total responses; and
- PFP recordkeeping responses = approximately 21% of total responses.

The link for WBSCM is <http://www.usda.gov/wps/portal/usda/usdahome?navid=WBSCM>.

A4. Describe efforts to identify duplication.

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.

There is no similar data collection effort available. Every effort has been made to avoid duplication. FNS has reviewed USDA reporting requirements. FNS solely administers and monitors the Donated Foods Program.

A5. Impacts on small businesses or other small entities.

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 requested or required has been held to the minimum required for the intended use. Although smaller businesses or entities are involved in this data collection effort, they deliver the same program benefits and perform the same function as any other entity or business. Thus, they maintain the same kinds of information on file. FNS estimates that one percent of the businesses, approximately 44 respondents, are small entities.

A6. Consequences of collecting the information less frequently.

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.

The principal consequences of less frequent collection would be the loss of management control. The data relates to statutory and regulatory terms and conditions of the grant. Its collection assists the Agency in being a good steward in monitoring Federal funds and detecting or correcting problems that result from a State agency's failure to satisfy statutory and regulatory requirements. The frequencies for the reporting and recordkeeping requirements range from on occasion to semi-annually, depending on the requirement. Please refer to the burden narrative (Attachment 1) for the frequency for the specific requirements in this collection.

A7. Special circumstances relating to the Guidelines of 5 CFR 1320.5.

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;**

Forms FNS-7 Destination Data for Delivery of Donated Foods; FNS-52, Food Requisition; FNS-53 Multi-Food Requisition; FNS-57 Receipt of Shipments; FNS-152, Monthly Distribution of Donated Foods to Family Units; and FNS-153, Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report; and FNS-155 Inventory Management Register; and FNS-667 Report of the Emergency Food Assistance Program Administrative Costs are collected electronically more frequently than quarterly to ensure efficient management of the Food Distribution programs. Timely ordering, receipt, inventory control, and accounting of USDA donated foods and funds are necessary to ensure the programs continue operating and the funds are spent during the appropriate time periods.

- **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.

A8. Comments in response to the Federal Register Notice and efforts to consult outside agencies.

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.

FNS published a 60-day notice in the proposed rule titled Revisions and Clarifications in Requirements for the Processing of Donated Foods, RIN 0584-AE38 (82 FR 1231). The public comment period ended on April 5, 2017. FNS collected 31 comments during the comment period for the proposed rule. The comments pertained to procedural changes and requested clarifications. None were relevant to cost and hour burden.

FNS consults with Regional Offices regarding any proposed changes as the result of legislative, regulatory, or administrative changes. Regional offices are in constant contact with State agencies which provides feedback on FNS processes and procedures that may

impact them.

A9. Explain any decisions to provide any payment or gift to respondents.

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

Respondents are not paid or provided with any gifts.

A10. Assurances of confidentiality provided to respondents.

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. The information collected as part of this package may contain personal identifying information on individuals doing business with Food and Nutrition Service. Therefore, the Food and Nutrition Service published a Privacy Act notice (system of records) titled Persons Doing Business with the Food and Nutrition Service USDA/FNS-10 on March 31, 2000 in the Federal Register Volume 65 pages 17251-52 to specify the uses to be made of the information in this collection.

The privacy of applicants and recipients of Food Distribution Programs is maintained by not divulging names, addresses, or telephone numbers, or any other information to the public, except as required by the Freedom of Information Act, or through appropriate legal procedures.

A11. Justification for any questions of a sensitive nature.

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 sensitive questions involved in this information collection.

A12. Estimates of the hour burden of the collection of information.

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.

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.

The estimated reporting burden for this information collection including the number of respondents, frequency of response, average time to respond and annual hour burden are shown in the attached Burden Narrative (Attachment 1) and Burden Table (Attachment 2). A summary of the burden appears below. There were no changes in burden from the proposed to the final rule. As a result of the final rule, FNS estimates that this collection will have 636,478 respondents, 3,814,782 responses, and 1,160,535 burden hours.

Affected Public	Est. No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Est. total Hours per Response	Est. total Burden
Reporting					
State, Local, and Tribal	20,866	11.13	232,319.24	0.25	58,679.50

Governments					
Private For Profit	2,812	306.43	861,681.33	0.03	26,093.88
Private Not for Profit	1,600	2.03	3,240.00	0.19	614.50
Individual	611,200.00	1.96	1,199,200.00	0.25	304,400.00
Total Estimated Reporting Burden	636,478.00	3.61	2,296,440.57	0.17	389,787.88
Recordkeeping					
State, Local, and Tribal Governments	20,866.00	22.58	471,130.46	0.08	35,413.02
Private For Profit	2,812	367.86	1,034,429.00	0.06	62,671.72
Private Not for Profit	1,600	7.99	12,782.00	52.63	672,662.29
Individual	0	0.00	0.00	0.00	0.00
Total Estimated Recordkeeping Burden	25,278.00	60.07	1,518,341.46	0.51	770,747.03
Total of Reporting and Recordkeeping					
	Est. No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Est. total Hours per Response	Est. total Burden
Reporting	636,478.00	3.61	2,296,440.57	0.17	389,787.88
Recordkeeping	25,278.00	60.07	1,518,341.46	0.51	770,747.03
Total	636,478.00	5.99	3,814,782.03	0.30	1,160,534.91

	Responses	Time Burden
Current OMB Inventory	3,879,951.70	1,163,449.05
Burden Revision Requested	3,814,782.03	1,160,534.91
Difference	(65,170)	(2,914)

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

We estimate the total cost to respondents to be \$18,522,137.21 per year for reporting and

recordkeeping combined for all Food Distribution Programs as detailed in the following chart:

Affected Public	Est. No. of Respondents	Total Annual Responses	Est. Total Burden	Hourly Wage Rate ¹	Respondent Cost
State, Local, and Tribal Governments	20,866	703,449.70	94,092.52	\$15.96	\$1,501,716.67
Private For Profit	2,812	1,896,110.33	88,765.60	\$15.96	\$1,416,698.98
Private Not for Profit	1,600	16,022.00	673,276.79	\$15.96	\$10,745,497.57
Individual	611,200.00	1,199,200.00	304,400.00	\$15.96	\$4,858,224.00
TOTAL	636,478	3,814,782.03	1,160,534.91		\$18,522,137.21

A13. Estimates of other total annual cost burden to Respondents or Record keepers.

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, or annual maintenance costs to respondents of the food distribution programs.

A14. Provide estimates of annualized cost to the Federal government.

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 Federal cost equals the cost of Federal worker time (headquarters and regional) in providing guidance and assistance in the collection and submittal of information for all the

¹ <http://www.bls.gov/oes/current/oes211093.htm>, Community and Social Service Occupations. Social and Human Service Assistants.

Food Distribution Programs, and in reviewing and analyzing the collected information.

Headquarters Staff	2.00 staff years
Regional Staff	<u>5.00 staff years</u>
Total Staff Years	7.00 staff years

7 staff years or 14,560 hours at \$42.08 ² per hour =	\$612,685
Cost of maintaining WBSCM Annually	\$5,000,000
Printing of Forms (\$30.00 per thousand copies):	\$750
Distribution of Forms:	\$175
Warehousing of Forms:	<u>\$600</u>
Total Federal Cost:	\$5,614,210

A15. Explanation of program changes or adjustments.

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

This is a revision of a currently approved collection, as the result of a final rule, Revisions and Clarifications in Requirements for the Processing of Donated Foods (RIN 0584-AE38), which substantially re-writes⁷ CFR Part 250 Subpart C. Further, this revision includes provisions inadvertently omitted in the currently approved information collection, substantially revises other provisions which were inaccurate, and updates all relevant aspects of information collection requirements in the package. This collection is currently approved with 3,879,952 responses and 1,163,449 burden hours. As a result of these changes, there is a net decrease of 2,914 hours made to the package (2,262.66 hours for program changes due to rulemaking + 1,502 hours of corrections to previously omitted hours - 6,678.80 hours of adjustments due to corrections and updates to existing

² Calendar Year 2016 Office of Personnel Management Salary Tables, for the locality pay of the Baltimore-Washington-Northern Virginia area. GS 12, Step 5 (estimate average grade and step).

burden). Various adjustments in the number of respondents and the responses per respondent and the removal of duplicate burden also reduced the number of responses for this collection by 65,170 responses, offsetting the addition of new information requirements resulting from the rule and from the addition of previously omitted information requirements. As a result of the rulemaking and other adjustments, FNS estimates that this collection will have 3,814,782 responses and 1,160,535 burden hours.

A16. Plans for tabulation, and publication and project time schedule.

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

This submission does not involve the collection of information through statistical methods. Also, there are no plans to publish any of the information collected.

A17. Displaying the OMB Approval Expiration Date.

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

The agency plans to display the expiration date for OMB approval of the information collection on all instruments.

A18. Explain each exception to the certification statement identified in Item 19.

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

No exceptions are made to the certification statement.