

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
OMB Number 0560-0280

Request for Special Priorities Assistance (Agriculture Priorities and Allocations System (APAS))

Purpose:

The United States Department of Agriculture (USDA) is requesting to renew OMB approval on a current information collection, Request for Special Priorities Assistance (Agriculture Priorities and Allocations System (APAS)). The APAS regulation is in the 7 CFR 789. This information is used to support the Agriculture Priorities and Allocation System (APAS) managed by the Farm Service Agency (FSA). Priority contracts are required to be given preference over other respective contracts to ensure timely delivery of an item that has been deemed necessary only in times of emergency or to promote the U.S. national defense. Information collected on this form is used to grant a priority rating request on contract(s) between the government and private parties or between private parties for the production or delivery of food, food resources (including livestock feed and agriculture seed), fertilizer, and farm equipment.

Governments and private industry can request from USDA that a priority rating authorization be granted on a contract for items that will provide them the means to meet the requirements of maintaining or restoring national defense operations. Priority contracts require a vendor/supplier to fill the order before all other unrated orders. In addition, it provides the vendor and supplier with legal protection from other customers without rated orders with respect to timeliness of filling their other unrated orders.

1. Explain the circumstances making 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.

APAS is a USDA program that supports not only national defense needs (such as food for combat rations), but also emergency preparedness initiatives by addressing essential civilian needs (food and food resources) through the placing of priorities on contracts for items and services or allocating resources, as necessary and APAS regulation is in 7 CFR 789. Although a specific Presidential disaster designation is not required, the ability to prioritize or allocate items or services can be triggered by a determination by the President or designated entities that this action is necessary or appropriate to promote national defense including the imminent need for emergency preparedness. Under DPA (50 U.S.C. App. 2061 to 2170, 2171, and 2172), the term “national defense” includes emergency preparedness, response, and critical infrastructure protection and restoration. Authority for priorities and allocations is specified in DPA and further defined in Executive Order 13603, National Defense Resources Preparedness,” dated March 16, 2012. Executive Order 13603 replaced Executive Order 12919 and further defined jurisdictional areas and national defense preparedness roles and responsibilities for specific Departments. Executive Order 13603 did not change the intent of DPA as it applies to USDA’s functions in national defense, including emergency preparedness; instead it gave additional jurisdiction to USDA for livestock, veterinary, and plant health resources.

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 AD-2102, Request for Special Priorities Assistance for Emergency Preparedness Activities, will be used to collect information from persons for APAS, and is available electronically at <http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>.

The information collected on the Request for Special Priorities Assistance is limited to:

- Name, address, and contact information of the person making the request for priority rating of a contract
- Name, address, and contact information of the vendor supplying the item
- Items the person is requesting for a priority rating on a contract, including ‘required by shipping dates’
- Explanatory section for the person to include circumstances requiring this request

Persons who have a responsibility in emergency preparedness, response, and recovery as well as those in the area of national defense and security (to include Federal, State, and local governments), suppliers and vendors of items for national defense will be customers of this form.

Those persons in need of an item(s) under jurisdiction of USDA will complete and submit this form to USDA for approval of a priority rating on an item(s) that have been determined to promote the national defense, and can not be obtained timely through normal market channels.

The Request for Special Priorities Assistance for Emergency Preparedness Activities (AD-2012) is used when a person is unable to obtain items as necessary to fulfill emergency preparedness and national defense contract obligations and is a request for USDA to ‘rate’ this item and provides the person with authority to instruct the vendor to fill the person’s order before any other non-rated order.

The person in need of the item completes and submits the form to USDA for determination. The Request for Special Priorities Assistance is either denied or approved and forwarded back to the person who submitted the request. The person provides the completed form to the vendor/supplier of the item(s) in question. A copy of the form is maintained in USDA/FSA/DAM/EPD for record keeping. USDA will report use of its APAS to Congress, through Department of Homeland Security (DHS) annually. Due to the nature of this program, and that it’s only used during times of critical shortages or threats to national defense, a hard copy must be submitted (either mailed, faxed, or hand delivered) to ensure security and authenticity of the data.

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.

The form and instruction are available on-line through USDA e-Forms website and can be completed (except for signature) electronically. The objective of this collection is to assist persons in timely obtaining items necessary for emergency preparedness or national defense and the applicant has made a reasonable effort in resolving this problem through normal market channels.

According to the FSA Office of General Council, an original signature is needed to provide a source to authenticate the validity of the information and pursue legal remedies, when necessary.

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.

No other Agency in USDA is authorized to implement a priorities and allocations program. As a result, there is no Department duplication for the information collected on this form. USDA did review the use of the form with other Federal Agencies, and worked in unison with other Agencies with priorities and allocations authorization to develop a form that was similar among Agencies (Defense Production Act Reauthorization (DPAR) of 2009 Pub. L. 111-67, 123 Stat. 2006, September 30, 2009). USDA's form is similar to the Department of Commerce's Form BIS-999, OMB NO. 0694-0057.

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.

Collection of this information does not impact any small businesses or other small entities. There are no small businesses or small entities in this collection.

6. Describe the consequences 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.

Failure to collect and maintain the data collected on the form will limit or eliminate USDA's ability to prepare for, respond to, and conduct emergency recovery actions because of an actual or impending hazard.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

There are no special circumstances identified in this information collection.

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 instruction and record keeping, 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 three years even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The notice requesting comment published on December 7, 2018 at 83 FR 63149. FSA did not receive any public comments on the information collection and the form.

FSA has also conferred with the following representatives from whom information is to be obtained or who must compile records. They commented that they were very familiar with the process and have no comments on the form.

- o Liam McMenamin/(202) 482-2233; Liam.McMenamin@bis.doc.gov..
- o For DoD: Juan Millan; (571) 372-6243; Juan.L.Millan.civ@mail.mil
- o For DHS/FEMA: Chris Brunner; (202) 212-5583; Christopher.Brunner@fema.dhs.gov.

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

No payments or gifts are provided to respondents.

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

Information required to be submitted to USDA in connection with the enforcement or administration of APAS is deemed to be confidential under § 705(d) of the Defense Production Act and shall be handled in accordance with applicable Federal law. Also, § 700.71 of the APAS regulation provides for confidentiality of information as required by Federal law.

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 or personal nature on the Request for Special Priorities Assistance.

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.

USDA estimates that 50 Request for Special Priorities Assistance will be completed annually. This estimate is based on the following:

- DOC, which implements a similar priorities program has never had more than 50 information collection requests in a year
- the nature of emergencies dictates that only rare occurrences for this collection will be seen.

Collection of the information is a one-time occurrence. The original Request for Special Priorities Assistance will be returned to the applicant after a determination by USDA. USDA maintains a

copy of the completed form for 3 years.

Providing the information requested for the Request for Special Priorities Assistance is estimated to take 30 minutes. Travel time is not included in this estimate because producers will not be encouraged to make a special trip to the USDA building in Washington, DC. The form is available on-line at USDA e-forms website. The current employer's hourly average rate is \$ \$27.56 from BLS website in January 2018. A total employer compensation costs (fringe benefits) for all workers averaged \$11.25 per hour worked from Bureau of Labor Statistics website, specifically in the document of the employer costs for employee compensation, September 2018. The estimated respondent's cost is \$970 ($\38.81×25 burden hours).

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 of its expected useful life; and (b) a total operation and maintenance and purchase of services component.

There are no capital and startup or ongoing operation and maintenance costs associated with this 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 of this survey to the Federal government for this information collection is difficult to estimate since due to the nature of the subject area. Emergency occurrences cannot be predicted and as a result, some years may be low in actual occurrences while other years may be high, multiple occurrences or events may be ongoing at the same time. For this summary, an average of 8 occurrences (based on FEMA's yearly planning agenda) and a staff of 2 full time senior level specialists is used (grade GS-14s). Each occurrence results in approximately 30 days of man labor to process and track information requests. Due to high probability that events will overlap or run concurrently, for this survey we're using a 3 month per year total man hours. Using \$141,000 average salary derived from OPM's Federal Government pays rate in January, 2019 and also included a total employer compensation costs (fringe benefits) for all government workers averaged \$7.20, 37%, per hour worked from BLS website, specifically in the document of the employer costs for employee compensation, September 2018. An estimated annual cost to the government is \$78,013 ($2 \text{ employees} \times 156,026 \times 0.2500$ (where 0.2500 is the result of 3 months divided by 12 months)).

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

There are no change to the burden hours since the OMB approval.

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

The information collected is not intended for publication.

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

USDA is including the expiration date on the Request for Special Priorities Assistance form.

18. Explain each exception to the certification statement identified in Item 19 “Certification for Paperwork Reduction Act.”

USDA is able to certify compliance with all provision under Item 19 of OMB Form 83-1.