

## Appendix A: Legal Authority

## 272.2

(c) *Budget Projection Statement and Program Activity Statement.* (1) The State agency shall submit to FNS for approval a Budget Projection Statement and Program Activity Statement in accordance with the submittal dates in §272.2(e).

(i) The Budget Projection Statement solicits projections of the total costs for major areas of program operations. The Budget Projection Statement shall be submitted annually and updated as necessary through the year. The Budget Projection Statement shall contain projections for each quarter of the next Federal fiscal year. The State agency shall submit with the Budget Projection Statement a narrative justification documenting and explaining the assumptions used to arrive at the projections. The narrative shall cover such subjects as: The number and salary level of employees; other factors affecting personnel costs including anticipated increases in pay rates or benefits, and reallocations of staff among units or functions, insofar as these might result in cost increases or decreases; costs for purchasing, leasing, and maintaining equipment and space, especially as concerns any upcoming, one-time-only purchases of new capital assets such as ADP equipment, renegotiation of leases, changes in depreciation rates or procedures, relocation of offices, maintenance and renovation work, and inflation; issuance system costs, including renegotiation of issuing agent fees and plans to change issuance systems; changes in caseload and factors contributing to increases or decreases in the number of participants; recertifications, including the anticipated impact of economic conditions (and in particular unemployment) and seasonality; cost implications of corrective action plans; anticipated changes in program regulations and operating guidelines and instructions; training needs; travel costs; and adjustments in insurance premiums. The narrative should cover as many of the items listed above, and any other items deemed relevant by the State agency, that will have a significant impact on costs. The State agency is not required to discuss every item in the list in every submission of a Budget Projection Statement. The narrative should concentrate on items that account for increases or decreases in costs from the preceding submissions.

(ii) The Program Activity Statement, to be submitted quarterly (unless otherwise directed by FNS), solicits a summary of Program activity for the State agency's operations during the preceding reporting period.

## 272.3(b)(c)

(b) *Submittal of operating guidelines and forms.*

(1) State agencies shall develop the necessary forms, except the Application for Food Stamps, and other operating guidelines to implement the provisions of the [Food and Nutrition Act of 2008](#) and regulations. In accordance with [§§ 273.2\(b\)](#) and 273.12(b)(1) State agencies shall use the FNS-designed Application for SNAP benefits or an FNS-approved deviation.

(2) State agencies shall submit their operating guidelines and forms and amendments to these materials to FNS for review and audit purposes simultaneous with distribution within the States.

(3) State agencies may request that FNS review and provide comments on their operating guidelines, forms and any amendments to these materials prior to distribution of the materials within the State.

(4) If deficiencies are discovered in a State agency's materials, FNS shall provide the State agency with written notification.

(c) *Waivers.*

(1) The Administrator of the Food and Nutrition Service or Deputy Administrator for Family Nutrition Programs may authorize waivers to deviate from specific regulatory provisions. Requests for waivers may be approved only in the following situations:

(i) The specific regulatory provision cannot be implemented due to extraordinary temporary situations such as a sudden increase in the caseload due to the loss of SSI cash-out status;

(ii) FNS determines that the waiver would result in a more effective and efficient administration of the program; or

(iii) Unique geographic or climatic conditions within a State preclude effective [implementation](#) of the specific regulatory provision and require an alternate procedure; for example, the use of fee agents in Alaska to perform many of the duties involved in the certification of households including conducting the interviews.

(2) FNS shall not approve requests for waivers when:

(i) The waiver would be inconsistent with the provisions of the Act; or

(ii) The waiver would result in material impairment of any statutory or regulatory rights of participants or potential participants.

(3) FNS shall approve waivers for a period not to exceed one year unless the waiver is for an on-going situation. If the waiver is requested for longer than a year, appropriate justification shall be required and FNS will determine if a longer period is warranted and if so, the duration of the waiver. Extensions may be granted provided that States submit appropriate justification as part of the State Plan of Operation.

(4) When submitting requests for waivers, State agencies shall provide compelling justification for the waiver in terms of how the waiver will improve the efficiency and effectiveness of the administration of the Program. At a minimum, requests for waivers shall include but not necessarily be limited to:

(i) Reasons why the waiver is needed;

(ii) The portion of caseload or potential caseload which would be affected and the characteristics of the affected caseload such as geographic, urban, or rural concentration;

(iii) Anticipated impact on service to participants or potential participants who would be affected;

(iv) Anticipated time period for which the waiver is needed; and

(v) Thorough explanation of the proposed alternative provision to be used in lieu of the waived regulatory provision.

(5) Notwithstanding the preceding paragraphs, waivers may be granted by the Food and Nutrition Service as provided in section 5(f) of the Act. Waivers authorized by this paragraph are not subject to the public comment provisions of [paragraph \(d\)](#) of this section.

(6) Notwithstanding the preceding paragraphs, waivers may be granted by the Food and Nutrition Service as provided in section 6(c) of the Act. Waivers authorized by this paragraph are not subject to the public comment provisions of [paragraph \(d\)](#) of this section.

277.18

(d) *APD content requirements* -

(1) *Planning APD (PAPD)*. The PAPD is a written plan of action to acquire proposed services or equipment and to perform necessary activities to investigate the feasibility, system alternatives, [requirements](#) and resources needed to replace, modify or upgrade the [State agency's](#) IS. The PAPD shall contain adequate documentation to demonstrate the need to undertake a planning process, as well as a thorough description of the proposed planning activities, and estimated costs and timeline, as specified by FNS in Handbook 901.

(2) *Implementation APD (IAPD)*. The IAPD is a written plan of action to acquire the proposed IS services or equipment and to perform necessary activities to design, develop, acquire, install, test, and implement the new IS. The IAPD shall contain detailed documentation of planning and preparedness for the proposed [project](#), as enumerated by FNS in Handbook 901, demonstrating the feasibility of the [project](#), thorough analysis of system [requirements](#) and design, a rigorous management approach, stewardship of federal funds, a realistic schedule and budget, and preliminary plans for key [project](#) phases.

(3) *Annual APDU content requirements*. The Annual APDU is a yearly update to ongoing IS [projects](#) when planning or implementation activities occur. The Annual APDU shall contain documentation on the [project](#) activity status and a description of major tasks, milestones, budget and any changes, as specified by FNS in Handbook 901.

(4) *As Needed APDU content requirements*. The As Needed APDU document shall contain the items as defined in [paragraph \(c\)\(3\)\(i\)\(D\)](#) of this section with emphasis on the area(s) where changes have occurred or are anticipated that triggered the submission of the APDU, as detailed by FNS in Handbook 901.

(e) *Service agreements*. The [State agency](#) shall execute service agreements when IS services are to be provided by a State central IT facility or another State or local agency. Service Agreement means the document signed by the State or local agency and the State or local central IT facility

whenever an IT facility provides IT services to the State or local agency. Service agreements shall:

- (1) Identify the IS services that will be provided;
- (2) Include a schedule of rates for each identified IS service, and a certification that these rates apply equally to all users;
- (3) Include a description of the method(s) of [accounting](#) for the services rendered under the agreement and computing services charges;
- (4) Include assurances that services provided will be timely and satisfactory;
- (5) Include assurances that information in the IS as well as access, use and disposal of IS data will be safeguarded in accordance with provisions of [§ 272.1\(c\)](#) (disclosure) and [§ 277.13](#) (property);
- (6) Require the provider to obtain prior approval from FNS pursuant to [paragraph \(c\)\(1\)](#) of this section for IS equipment and IS services that are acquired from commercial sources primarily to support federally aided public assistance [programs](#) and require the provider to comply with [§ 277.14](#) (procurement standards) for procurements related to the service agreement. IS equipment and services are considered to be primarily acquired to support federally aided public assistance [programs](#) when the [Programs](#) may reasonably be expected to either be billed for more than 50 percent of the total charges made to all users of the IS equipment and services during the time period covered by the service agreement, or directly charged for the [total cost](#) of the purchase or lease of IS equipment or services;
- (7) Include the beginning and ending dates of the period of time covered by the service agreement; and
- (8) Include a schedule of expected total charges to the [Program](#) for the period of the service agreement.
- (9) *State Agency Maintenance of Service Agreements.* The [State agency](#) shall maintain a copy of each service agreement in its files for Federal review upon request.

#### § 274.4 Reconciliation and reporting.

(c) Required reports. The State agency shall review and submit the following reports to FNS on a monthly basis:

- (1) Form FNS-46, Issuance Reconciliation Report, shall be submitted by each State agency operating an issuance system. The report shall be prepared at the level of the State agency where the actual reconciliation of posted benefits and the master issuance file occurs.
  - (i) The State agency shall identify and report the number and value of all issuances which do not reconcile with the master issuance file. All unreconciled issuances shall be identified as specified on this reporting document.

(ii) The report shall be received by FNS no later than 90 days following the end of the report month.

(2) Form FNS-388, State Issuance and Participation Estimates.

(i) State agencies shall telephone or transmit by computer the Form FNS-388 data and mail the reports to the FNS regional office no later than the 19th day of each month. When the 19th falls on a weekend or holiday, the Form FNS-388 data shall be reported by telephone or transmitted by computer and mailed on the first work day after the 19th. The Form FNS-388 report shall be signed by the person responsible for completing the report or a designated State agency official.

(ii) The Form FNS-388 report shall provide Statewide estimated or actual totals of issuance and participation for the current and previous month, and actual or final participation totals for the second preceding month. In addition to the participation totals for the second preceding months of January and July, provided on the March and September reports, non-assistance (NA) and public assistance (PA) household and person participation breakdowns shall be provided. As an attachment to the March and September Form FNS-388 reports, State agencies shall provide project area breakdowns of benefit issuance and NA/PA household and person participation data for the second preceding months of January and July.