

**MEMORANDUM OF UNDERSTANDING**  
between the  
THE UNITED STATES DEPARTMENT OF AGRICULTURE,  
ECONOMIC RESEARCH SERVICE (ERS)

and the

\_\_\_\_\_ (*name of university, institution, or agency*)  
(hereinafter referred to as the Organization)

**SUBJECT:**

Access by the Organization's staff to the ERS National Household Food Acquisition and Purchase Survey (FoodAPS) data, which have been collected and acquired exclusively for statistical purposes under a pledge of confidentiality.

**DURATION:**

All conditions and provisions of this Memorandum of Understanding shall become effective upon the date of final signature and shall continue in force for a period of 5 years. This memorandum may be amended or extended at any time by mutual agreement of all parties in writing or terminated immediately by any party upon written notice to the other parties.

**LOCATION OF DATA ACCESS:**

FoodAPS data may be accessed only through a secure data enclave.

**DATA ACCESS:**

Access will be supervised in a manner consistent with Agency (ERS) regulations governing data confidentiality and survey data research.

ERS responsibilities for access:

1. Contact secure data enclave provider to initiate user set-up;
2. Inform each data user of the USDA policy on confidentiality pertaining to the use of FoodAPS data; and
3. Review completed data summaries to avoid disclosure of confidentiality.

DATA USER responsibilities for remote access visits:

1. Will not remove any type of media containing information derived from FoodAPS data—including printouts, diskettes, compact disks, hard-drives, DVDs, USB memory chips, or electronic transmissions—without the approval of ERS; and
2. Will respect the confidentiality of FoodAPS data at all times, including after the termination date of this Memorandum of Understanding.

**DATA COLLECTION:**

The National Household Food Acquisition and Purchase Survey (FoodAPS) collected household information and food acquisition data from a nationally representative sample of about 5,000 households over the period from April 2012 to January 2013. Confidentiality of these data is protected by the U.S. Confidentiality of Information Act (7 U.S.C. 2276) and the Privacy Act of 1974 (5U.S.C. 552a). Disclosure of confidential information is covered in 18 U.S.C. sections 1902 and 1905.

**DATA SHARING:**

The Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), Title V of the E-Government Act of 2002 (Public Law 107-347), Subtitle A, establishes standards and requirements that provide the legal authority for any party entering into this Memorandum of Understanding. CIPSEA allows Federal agencies that collect data under the pledge of confidentiality to share individual identifiable data for statistical purposes only, to deny use of the data for non-statistical purposes (such as enforcing regulations or release under the Freedom of Information Act (FOIA)), and to punish those who disclose identifiable information about individual respondents.

**PENALTIES:**

The protection of data collected under this law is supported by a penalty of a Class E Felony for a knowing and willful disclosure of confidential data. This penalty includes imprisonment for up to 5 years and fines of up to \$250,000. Any violation of this Memorandum of Understanding may also be a violation of Federal criminal law under the Privacy Act of 1974, 5 U.S.C. 552a. In addition to the imposition of civil/criminal fines and penalties, any violation of data confidentiality will result in the termination of this Memorandum of Understanding.

**REASON FOR REQUESTING ACCESS TO THE FoodAPS DATA:****GENERAL:**

The Organization has a current and ongoing need to conduct research that will not only benefit the Organization but also the USDA State and Federal officials overseeing the nation's food assistance programs, policymakers, and the U.S. public. This benefit will increase understanding of food choice behaviors of U.S. households across all income levels, including those participating in food assistance programs. FoodAPS provides a unique source of data on both grocery shopping and meals and snacks purchased outside the home that, together with information on household characteristics and the local retail food environment, will support many research efforts in these areas.

**SPECIFIC:**

A separately signed Project Agreement or Portal Application is needed for each research project.

## DISSEMINATION AND DISCLOSURE REVIEW OF INFORMATION:

When an approved member of the project's research team requests a download from the secure data enclave of any material related to analysis or other use of the restricted FoodAPS data, the material must first be submitted to ERS for disclosure review and approval. The disclosure review is required by CIPSEA, and the review and approval decision will follow the guidelines for review provided by the Office of Management and Budget. The ERS review will:

1. Check to ensure that dissemination of the submitted material will not risk disclosure of confidential information that could lead to identification of a respondent in the FoodAPS data collection;
2. Check to ensure that the submitted material does not provide names of individuals, retail outlets, schools, churches, food organizations, other organizations, food manufacturers, branded food items, or individual or establishment locations; and
3. Check to see that the submitted analyses conform to the analysis plan presented in the approved Project Agreement or Portal Application, as amended.

Materials needing review and approval include (but are not limited to) tables, charts, figures, slides, and text, whether in draft, revised, or final form. All reports, papers, manuscripts, presentations and speeches based on analysis of the restricted FoodAPS data need to be prepared within the confines of the secure data enclave.

The parties understand that the analytical conclusions of reports and outputs to be cleared are within the purview of the project research team and its Organization and not the Economic Research Service.

The Organization shall not use or disclose subject data for any administrative purposes nor may they be applied in any manner to change the status, condition, or public perception of any individual or establishment for which data are maintained. The research conducted under this MOU must be consistent with the statistical purpose for which the data were supplied.

Until cleared by ERS, the Organization shall not disclose data or other information derived from the data to anyone other than individuals for whom access is authorized under this MOU and who have executed an ERS Confidentiality Agreement. Only reviewed and ERS-approved materials may be circulated beyond members of the project research team, with signed confidentiality agreements or otherwise disseminated or published.

If the research team and the ERS reviewer cannot reach agreement on whether part or all of a submitted document poses a disclosure risk or is otherwise inconsistent with a condition of dissemination, the ERS Confidentiality Officer shall review and provide a final decision.

Planned publications may include articles in professional journals, in-house publications, and posters or presentations at professional meetings.

#### DESIGNATION OF AUTHORITY:

The Organization will designate an individual, hereafter referred to as the Senior Official, who has authority to represent the Organization in accepting the responsibilities imposed by this Memorandum of Understanding, signing this Memorandum of Understanding, and enforcing the conditions of this Memorandum of Understanding. Additional responsibilities are detailed below.

#### PROJECT-SPECIFIC REQUEST AND AGREEMENT:

The Organization will submit to ERS (for review and approval) a Project Agreement or Portal Application signed by the Senior Official, for each individual research project that will access the FoodAPS data. The Project Agreement/Portal Application must have the following components:

1. A description of the research project. The description includes objectives, the methodology, how the FoodAPS data will benefit this project, and how this project addresses a purpose for which FoodAPS data were collected and for which the FoodAPS data are appropriate (see <https://www.ers.usda.gov/data-products/foodaps-national-household-food-acquisition-and-purchase-survey/background.aspx>);
2. Details on what specific FoodAPS data are needed.
3. An ending date.
4. A Project Leader, whose signature will be required on the Project Agreement.
5. A list of all parties who will be accessing the FoodAPS data; and
6. The approval and signatures of the Organization's Senior Official and ERS administrator.

#### RESPONSIBILITIES OF THE SENIOR OFFICIAL:

The Organization's Senior Official will:

1. Ensure that the FoodAPS data are being used for statistical purposes only, as defined in the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA);
2. Notify ERS when the project no longer needs access to the FoodAPS data.
3. Notify ERS when the project purpose changes.
4. Have each member of the project, including the Project Leader, participate in ERS confidentiality training.
5. Immediately notify ERS when job status changes for any project member; and
6. Affix his/her signature to this Memorandum of Understanding and all Project Agreements.

**SECURITY:**

FoodAPS data may be accessed only through the secure data enclave web site. All data processing must be done within the confines of the data enclave, and no research materials may be exported from the enclave without reviews for disclosure risk by both the secure data enclave and ERS.

The Organization agrees to:

1. Obtain disclosure risk clearance from ERS on materials exported from the secure enclave, and on any subsequent product written or developed based on the material cleared from the data enclave—prior to any release.
2. Make all FoodAPS users aware of the penalties for misuse and improper disclosure of data and the Organization’s legal responsibility for answering to allegations of misuse and improper disclosure;
3. Immediately notify ERS of termination of an individual’s participation in a FoodAPS project;
4. Ensure all FoodAPS project team participants annually complete CIPSEA training and sign an ERS Confidentiality Agreement;
5. Deter accidental exposure of FoodAPS data to noncertified users by providing proper IT security training regarding the use of confidential data—including the proper protection of identification (IDs) and passwords, prohibition of sharing IDs, and the provision of private computing areas;
6. In response to a request for FoodAPS information from any party not subject to this agreement, the Organization must refer the request and requestor to ERS for response. The Organization must advise the requestor that the information was obtained by ERS from respondents, as confidential data to be used exclusively for statistical purposes under CIPSEA.
7. Provide shredders for proper disposal of all paper forms of FoodAPS data used during the course of the project’s life;
8. Allow ERS officials to carry out unannounced physical and IT security inspections of the Organization’s workplace;
9. Acknowledge ERS’s right of approval for each individual working for the Organization who will be allowed access to the information covered under this Agreement; and
10. Acknowledge ERS’s right to direct the Organization to deny access to certain individuals working for the organization if ERS determines that such action is in the best interest of ERS. If the Senior Official of the Organization will not comply with such direction, the Organization must immediately discontinue using any information provided under this Agreement.

LOCATION OF ALL PARTIES:

- 1. Name and mailing address of the Organization:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 2. Economic Research Service  
 United States Department of Agriculture  
 355 E St., SW  
 Washington, DC 20024-3221

SIGNATURES:

The Organization’s designated Senior Official shall sign this Memorandum of Understanding below. The designated Senior Official certifies, by his/her signature, that:

- 1. The Organization has the authority to undertake the commitments of this Memorandum of Understanding.
- 2. The designated Senior Official has the authority to bind the Organization to the provisions of this Memorandum of Understanding; and
- 3. The designated Senior Official has the authority to enforce the provisions of this Memorandum of Understanding.

Signature of Senior Official: \_\_\_\_\_

Type or Print Name of Official Above: \_\_\_\_\_

Organizational Title of Senior Official: \_\_\_\_\_

Date: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

The Economic Research Service concurs in the Memorandum of Understanding and authorizes access by the Organization to the FoodAPS data. This agreement is effective as of the date of the ERS representative’s signature below.

Signature of ERS Official: \_\_\_\_\_

Type or Print Name of ERS Official: \_\_\_\_\_

Title: Administrator, ERS

Telephone: (202) 694-5000

Date Approved: \_\_\_\_\_

The information you provide will be used for statistical purposes only. Your responses will be kept confidential and any person who willfully discloses ANY identifiable information about you or your operation is subject to a jail term, a fine, or both. This survey is conducted in accordance with the Confidential Information Protection provisions of Title V, Subtitle A, Public Law 107-347 and other applicable Federal laws. Response is voluntary.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB number is 0536-xxxx. The time required to complete this information collection is estimated to average 60 minutes per project, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.