SUPPORTING STATEMENT – PART A for

OMB CONTROL NUMBER 0584-0006:

7 CFR Part 210 National School Lunch Program

Final Rule: Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans (RIN 0584-AE88)

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Attachments

A. Burden Chart for OMB Control #0584-0006, Final Rule, *Child Nutrition Programs: Meal Patterns Consistent with the 2020-2025 Dietary Guidelines for Americans for 0584-0006 7 CFR Part 210 for National School Lunch Program*
B. Estimate of the Information Collection Burden (Narrative) for the final rule, *Child Nutrition Programs: Meal Patterns Consistent with the 2020-2025 Dietary Guidelines for Americans* (OMB Control Number 0584-0006 7 CFR Part 210 National School Lunch Program)
C. The final rule, *Child Nutrition Programs: Meal Patterns Consistent with the 2020-2025 Dietary Guidelines for Americans*

C.1 The proposed rule, *Child Nutrition Programs: Revisions to Meal Patterns Consistent with the 2020 Dietary Guidelines for Americans*

D. National School Lunch Act

E. The Child Nutrition Act of 1966

F. Title 7 CFR Part 210 – National School Lunch Program Regulations

G. Additional Information for A.2

H. Additional Information for A.8

I. ID FNS-2022-0043-92016 – Public Comment Example 1

J. ID FNS-2022-0043-81698 – Public Comment Example 2

K. ID FNS-2022-0043-33789 – Public Comment Example 3

L. ID FNS-2022-0043-55305 – Public Comment Example 4

M. ID FNS-2022-0043-0122 – Public Comment Example 5

N. ID FNS-2022-0043-36452 – Public Comment Example 6

O. ID FNS-2022-0043-92016 – Public Comment Example 7

P. ID FNS-2022-0043-73724 – Public Comment Example 8

Q. ID FNS-2022-0043-93129 – Public Comment Example 9

R. ID FNS-2022-0043-81697 – Public Comment Example 10

S. ID FNS-2022-0043-0264 – Public Comment Example 11

T. ID FNS-2022-0043-73819 – Public Comment Example 12

A. JUSTIFICATION

A1. Circumstances that make the collection of information necessary.

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 to a currently approved information collection, OMB Control Number 0584-0006 (7 CFR Part 210 National School Lunch Program, expiration date September 30, 2026) in support of a final rule, *Child Nutrition Programs: Meal Patterns Consistent with the 2020-2025 Dietary Guidelines for Americans* (RIN 0584-AE88) (Attachment C). The final rule amends Program regulations and introduces new requirements associated with the National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Child and Adult Care Food Program (CACFP), and the Summer Food Service Program (SFSP) that require collections of information that are not currently accounted for in FNS' currently approved information collection requests.

A proposed rule, *Child Nutrition Programs: Revisions to Meal Patterns Consistent with the 2020 Dietary Guidelines for Americans*, was published in the Federal Register on February 7, 2023 (89 FR 31962) (Attachment C.1). In the proposed rule, FNS introduced new information collection requirements that the agency intended to include in existing information collections that were already approved and included in OMB's information collection inventory. However, one of the collections involved with the rule, OMB Control Number 0584-0006, was set to expire between the publication of the proposed and final rule. Due to the uncertain timing of the rules in conjunction with the renewal of OMB Control Number 0584-0006, FNS requested a new OMB control number for the collections associated with this rule. For the final rule, FNS decided to switch to revisions of

the existing collections related to this rule, rather than request a new information collection, because OMB Control Number 0584-0006 was renewed and updated with a new expiration date of September 30, 2026. In the meantime, OMB reviewed the proposed rule submission, "filed with comment" on that submission on March 21, 2023, and assigned a preliminary OMB Control Number of 0584-0679 to the collection (which is not officially included in OMB's information collection inventory since it was assigned to a proposed rule). Since FNS decided to submit revisions to the existing information collections for the final rule, OMB Control Number 0584-0679 was not used for the final rule. Once the final rule submission is reviewed and approved by OMB, the agency will publish another notice in the Federal Register announcing OMB's approval.

Under the NSLA, USDA is required to develop school nutrition requirements that are consistent with the goals of the most recent *Dietary Guidelines for Americans* (NSLA, 42 U.S.C. 1758(f)). Schools are required by regulation to comply with the meal requirements. This rulemaking finalizes long-term school nutrition requirements based on the most recent *Dietary Guidelines for Americans* and feedback from Child Nutrition Program stakeholders. In addition, the final rule strengthens the Buy American provision, which requires the purchase of domestic commodities or products to the maximum extent practicable. Regarding the professional standards hiring requirements, the final rule allows State agencies to approve the hiring of an individual to serve as a school nutrition program director in a medium or large local educational agency[1] who does not meet standard educational criteria, but who has at least 10 years of school nutrition program experience. The rule

[1] A local educational agency is a public board of education or other public or private nonprofit authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public or private nonprofit elementary schools or secondary schools. The role of a local educational agency is similar to that of a school food authority, which is defined as the governing body responsible for the administration of one or more schools and has legal authority to operate a Child Nutrition Program therein. While the hiring exception is applicable to local educational agencies, the burden associated with the submission of requests to hire individuals who do not meet standard educational criteria and maintenance of those requests is captured at the school food authority level.

allows SFAs and schools that are tribally operated, operated by the Bureau of Indian Education, and that serve primarily American Indian or Alaska Native children to serve vegetables to meet the grains requirement.[2] To meet the goals of the *Dietary Guidelines for Americans*, this rule updates nutrition requirements, primarily through reduced sodium and reduced added sugar content of meals, which leads to additional menu development and editing for SFAs. More information on the changes that would require collections of information is provided below.

Professional Standards Exception

This final rule codifies the proposed hiring exception which allows State agencies the discretion to approve the hiring of an individual to serve as a school nutrition program director in a medium (2,500 to 9,999 students) or large (10,000 or more students) local educational agency, for individuals who have 10 years or more of school nutrition program experience but who do not hold a bachelor's or associate's degree. Directors hired in medium and large local educational agencies are still required to have a high school diploma or GED. USDA expects that this change will ease hiring challenges, which USDA understands are experienced by some medium and large local educational agencies. In addition, this change will allow highly experienced and qualified individuals to advance their careers in school food service. To use this hiring exception, SFAs are required to submit a request to the State agency. State agencies will approve or deny those requests, and it is expected both State agencies and SFAs would maintain records of requests and approvals.

Buy American

The National School Lunch Act (NSLA, 42 U.S.C. 1760(n)) and program regulations at 7 CFR 210.21(d)(2)(i) require school food authorities to purchase domestic commodities or products "to

[2] USDA currently allows schools in American Samoa, Puerto Rico, and the U.S. Virgin Islands to serve vegetables such as yams, plantains, or sweet potatoes to meet the grains component. See 7 CFR 210.10(c)(3) and 220.8(c)(3).

the maximum extent practicable." This provision, known as the Buy American provision, was initially implemented in 1998 and supports the mission of the child nutrition programs, which is to serve children nutritious meals and support American agriculture. This final rule seeks to strengthen the Buy American requirement while recognizing that purchasing domestic food products is not always practicable for schools. There are two limited exceptions to the Buy American provision that school food authorities may implement when purchasing domestic foods is not feasible. The exceptions apply when a product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality, or when competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product. The National School Lunch Act (NSLA, 42 U.S.C. 1760(n)) and program regulations at 7 CFR 210.21(d)(2)(i) require school food authorities to purchase domestic products.

This rule maintains the current two limited exemptions to the Buy American provision, clarifies in regulation that it is the responsibility of the school food authority to determine whether an exception applies, and adds a cap on the resources that can be used for non-domestic purchases. This cap will be implemented by way of a phased-in approach to reduce the amount of non-domestic purchases made by schools over time. School food authorities (SFAs), which are the governing bodies responsible for the administration of one or more schools, must maintain documentation to support use of one of the two limited exceptions. Beginning in SY 2025-2026, SFAs must also maintain documentation to demonstrate that no more than 10 percent of their total annual commercial food costs per school year were for non-domestic food purchases. This cap will shift to 8 percent in SY 2028-2029 and to 5 percent in SY 2031-2032. This recordkeeping requirement would codify a requirement to maintain documentation for use of the

exceptions to the Buy American provision, which is currently not discussed in the regulations governing the Buy American provisions.

In addition, the rule requires SFAs to include the Buy American provision in documented procurement procedures, solicitations, and contracts for foods and food products procured using informal and formal procurement methods, and in awarded contracts. To reduce burden on SFAs, under this final rule, when an SFA purchases a food item found on the Federal Acquisition Regulations (FAR) 25.104 Nonavailable articles list, no further documentation is required. The nonavailable articles list is a list of items that have been deemed not available in the U.S. and are excepted from the Buy American statute. Food products from the FAR nonavailable articles list must still be included in the non-domestic food cap calculation. USDA expects this final rule will ensure vendors are aware of Buy American requirements at all stages of the procurement process.

Substituting Vegetables for Grains in Tribal Communities

This final rule allows SFAs and schools that are tribally operated, operated by the Bureau of Indian Education, and that serve primarily American Indian or Alaska Native children to serve vegetables to meet the grains requirement in NSLP. The final rule clarifies that this provision allows the substitution of any creditable vegetable, including traditional vegetables such as breadfruit and prairie turnips. Additionally, this rule allows all schools and facilities in Guam and Hawaii to serve vegetables to meet the grains or breads requirement. The menu planning option aims to improve the child nutrition programs for American Indian and Alaska Native participants and build on USDA's commitment to support traditional food ways. As detailed in the proposed rule, SFAs and schools that are tribally operated or operated by the Bureau of Indian Education,

or program operators that serve primarily American Indian or Alaska Native participants, must maintain documentation to demonstrate that they qualify if they choose to use this option. The SFA would maintain documentation for program reviews.

Menu Planning Options

The final rule makes a variety of changes to school meal nutrition requirements, including to implement quantitative limits for the following leading sources of added sugars in school meals, including in school lunch: breakfast cereals, yogurts, and flavored milks. The rulemaking will also implement a dietary specification limiting added sugars to less than 10 percent of calories per week in the school lunch program. FNS acknowledges these changes will be reflected in schools' production and menu records that show how meals offered at school contribute to the required food components and food quantities for each age/grade group every day.

Longstanding recordkeeping requirements established at 7 CFR 210.10(a)(3) require schools to maintain menu records for the meals produced and served in schools participating in the NSLP and SBP, but additional burden must be addressed for developing menus. This includes developing menus that meet existing and updated FNS menu specifications, including but not limited to, whole grains, milk, sodium, and added sugars.

Annualized Costs

Public comments received in response to the proposed rule indicated that respondents would incur additional costs when implementing some of the provisions in this rule. Respondents and other stakeholders indicated that some of the rule provisions would incur costs for extra supplies, funding to implement updated meal patterns, and costs related to updating websites, materials,

menus, and recipes. Respondents indicated that the rule provisions could result in potential costs for the SFAs to update meal planning databases. Regarding the Buy American provisions, public comments indicated start-up costs for implementing the Buy American provisions over time, mainly due to updated forms and the labor associated with updating ordering procedures and documentation. In light of these comments, FNS has accounted for start-up and/or maintenance costs that this final rule will add to this collection. Additional details concerning these costs are provided in the response to A.13.

The final rule contains an existing information collection in the form of recordkeeping requirements that have been approved by OMB under OMB Control Number 0584-0006 7 CFR part 210 National School Lunch Program; however, the provisions in this rule do not impact these requirements or their associated burden so they are not included in the discussion concerning the burden impact resulting from the provisions in this rulemaking.

A proposed rule, Child Nutrition Programs: Revisions to Meal Patterns Consistent With the 2020 Dietary Guidelines for Americans, was published in the Federal Register on February 7, 2023. Further information on the changes between the proposed and final rules can be found below in A.2 and A.8.

The National School Lunch Act (NSLA) (42 U.S.C. 1751 et seq.) (Attachment D) authorizes the NSLP, CACFP, and SFSP, and the Child Nutrition Act of 1966 (CNA) (P.L. 111-296) authorizes the SBP (42 U.S.C. 1779) (Attachment E). Section 10 of the CNA requires the Secretary of Agriculture to prescribe such regulations as deemed necessary to carry out Child Nutrition

Programs authorized under the NSLA and CNA, as amended. As required, the Secretary of Agriculture issued 7 CFR Part 210 (Attachment F), which sets forth policies and procedures for the administration and operation of the NSLP.

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 final rule, *Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans* **(**RIN 0584-AE88) (Attachment C) is adding new information requirements and their associated burden into the currently approved collection for OMB Control Number 0584-0006. These new information requirements are required in order to administer and operate the Child Nutrition Programs according to the changes in the final rule and the corresponding revisions to program regulations at 7 CFR Part 210.

The final rule will require State and local program operators to collect information to ensure program integrity and enable USDA and state and local administering agencies to determine whether programs are in compliance with requirements, such as the recordkeeping requirements associated with the Buy American provision, the menu planning option, and with the professional standards hiring exception. More information on the specific changes between the proposed rule and final rule can be found in Attachment G.

The burden for the new information requirements associated with the Buy American provision, the professional standards hiring exemption, the menu planning option for SFAs and schools that

are tribally operated, operated by the Bureau of Indian Education, and that primarily serve American Indian and Alaska Native children, and developing updated menu records based on nutrient specifications in the final rule will be added into OMB Control Number 0584-0006. FNS estimates that adding these information requirements into the NSLP collection for the NSLP will increase the number of responses and burden hours for the updated information collection, as outlined in A.15. The final rule is also expected to add start-up and maintenance costs related to extra supplies, funding to implement the updated meal patterns, updating websites, materials, menus, recipes, meal planning databases, and implementing Buy American provisions into this collection. Additional details concerning these costs can be found in A.13.

For details concerning the information that is collected, whether the information is considered reporting or recordkeeping, or whether the information is voluntary, mandatory, or necessary to obtain benefits, who the information is collected from, how the information is used, and how the information is collected, please see *Additional Information for A.2* (Attachment G). To review the information requirements in further detail, please see the *Estimate of the Information Collection Burden (Narrative)* (Attachment B).

A3. Use of the 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.

USDA is committed to complying with the E-Government Act of 2002 to promote the use of the Internet and other information technologies, which provide increased opportunities for citizen

access to Government information and services.

USDA estimates that approximately 98% of respondents will report and/or maintain data electronically. State agencies and local program operators generally maintain websites, business communication platforms, software systems, and administrative emails, etc., to communicate electronically with one another and USDA, when necessary. At the State Agency level, for the total estimated 951 annual reporting responses associated with the professional standards exception, USDA estimates 932 (98%) would be collected electronically. At the SFA level, for the total estimated 951 annual reporting responses associated with the professional standards exception, USDA estimates 932 (98%) would be collected electronically. At the State Agency level, for the total estimated 951 annual recordkeeping responses associated with the professional standards exception, USDA estimates 932 (98%) would be collected electronically. At the SFA level, for the total estimated 951 annual recordkeeping responses associated with the professional standards exception, USDA estimates 932 (98%) would be collected electronically. At the SFA level, for the total estimated 190,190 annual records demonstrating compliance with the Buy American provision, USDA estimates 186,386 (98%) would be collected electronically. Similarly, for the total 19,019 annual records that SFA must maintain, including language for Buy American in their procurement and contract procedures, USDA estimates 18,639 (98%) would be collected electronically. For the menu planning option in Tribal Communities, USDA estimates that 311 (98%) annual records of the total 317 annual records would be collected electronically from SFAs. For the menu development requirements resulting from the final rule, at the SFA level, USDA estimates that 186,386 (98%) of the total 190,190 annual records would be collected electronically. For the total estimated 403,520 annual responses associated with this revision to the collection, USDA estimates

395,450 (98%) would be collected electronically and only a negligible amount would be submitted non-electronically. As a result of the final rule, FNS estimates that 46,122,166 (96 %) of the 48,035,516 total annual responses will be collected electronically.

A4. 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.

The information requirements resulting from the final rule are new, and there is no similar information collection available. FNS has reviewed FNS reporting and recordkeeping requirements, including State administrative agency and local program operator requirements to avoid duplication.

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.

SFAs and schools that primarily serve Alaska Native and Native American participants generally meet the definition of a ‘‘small governmental jurisdiction,’’ which meets the definition of ‘‘small entity’’ in the Regulatory Flexibility Act. Therefore, the local level collections of information addressed in the final rule would impact small entities. FNS estimates that all of the 317 local level respondents included in this menu planning element of the information collection that would be impacted by collection of information requirements are considered small entities. Out of the estimated SFA respondents for the menu planning options in Tribal Communities, 100% will be small entities. As a result of this rule, out of the estimated 19,075 respondents for the final rule related pieces added to this data collection, FNS estimates that 317 (1.7%) will be small entities

affected by the menu planning option in Tribal Communities. With the final rule provisions added into the collection, FNS estimates that 115,816 (99.8 %) of the 115,935 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.

This is a revision to a currently approved collection that contains required and mandatory reporting and recordkeeping requirements that program operators are required to obtain or retain according to the final rule. To demonstrate compliance with the Buy American provision, each year, SFAs will maintain documentation on an annual basis showing when exceptions to the provision are used and that no more than the specified percent (depending on implementation schedule) of their total annual commercial food costs are spent on non-domestic foods. The maintenance and preparation of procurement procedures, solicitations, and contracts will ensure that vendors are aware of requirements at all stages of the procurement process. It will also provide contractual protection for SFAs if vendors fail to meet Buy American requirements. The requirement for SFAs to maintain documentation of exceptions to the Buy American provision and documentation that no more than the specified percent of their total annual commercial food costs were for non-domestic foods will help to ensure that any non-domestic food purchase was under the finalized cap. If the information collection occurred less frequently, State agencies and SFAs, as well FNS, would not be able to oversee compliance with the Buy American provision, and school meals operations would fall out of compliance with the recordkeeping requirements.

Other information collection requirements addressed in the rule are required to implement operational or administrative exceptions and, therefore, occur irregularly or when a program operator uses the exception. For example, only SFAs or qualifying schools would implement the menu planning option to serve vegetables to meet the grains requirement. If these SFAs choose to implement the menu planning option, they must maintain documentation demonstrating that the SFA or school is tribally operated, operated by the Bureau of Indian Education, or serves primarily American Indian or Alaska Native students. In addition, SFAs that implement the professional standards hiring exemption will be required to seek approval from their respective State agency. The information collections associated with these provisions will occur irregularly. Additionally, menu development, in addition to regular menu maintenance is required to occur to meet the reduced added sugar and sodium requirements gradually implemented over time. SFA menu record information will be reviewed periodically through administrative reviews (generally once per three-year cycle) to verify ongoing compliance of menus with updated nutrient standards, definitions, and requirements.

The information collections will enable State and local program operators and FNS to ensure that only eligible SFAs and schools implement the menu planning option for American Indian and Alaska Native participants, and that nutrient specifications are met by all SFAs and schools in the correct implementation years and beyond. For the professional standards hiring exemption, the information collections will ensure SFAs and State agencies have documentation available to demonstrate that the individual hired has the required 10 years of school nutrition program experience needed to substitute for a bachelor’s or associate’s degree. If the collections were not

conducted on an as-needed basis, State and local administrations and USDA would not be able to monitor compliance with the finalized option and exception, and program administrators may be noncompliant with the federal requirements.

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;**
- **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 special circumstances for the information requirements in the rule. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5.

A8. Comments to the Federal Register Notice and Efforts for Consultation.

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.

The final rule was published in the Federal Register on April 25, 2024 (89 FR 31962). A 60-day Federal Register Notice was embedded in the proposed rule, *Child Nutrition Programs: Revisions to Meal Patterns Consistent with the 2020-2025 Dietary Guidelines for Americans* (RIN 0584-AE88), which was published in the Federal Register on February 7, 2023 (Vol. 88, No. 25, page 8050). The comment period for the proposed changes in the information collection burden was originally scheduled to end on April 10, 2023 but was extended to May 10, 2023. Information on the public comments and USDA response can be found in Attachment H, *Additional Information for A.8.*

A 30-day Notice was published in the Federal Register on August 27, 2024 (Vol. 89, No. 166, pp. 68577-578). The public comment period ended on August 26, 2024. FNS received one comment in response to the notice, but it was not germane to the necessity of the information collection, the usefulness of achieving the stated objectives, or the elements impacting the 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 held listening sessions and consulted with key stakeholders, such as State agencies, SFAs, Tribal leaders, and food manufacturers to gain insights and perspectives to inform the development of this rulemaking. However, those efforts were not focused on the collections of information that would occur in conjunction with the rule.

Because FNS provided notice and comment through the notice of a proposed rulemaking for the proposed rule, which specifically included the solicitation of comments on the proposed collections

of information, FNS did not consult with members of the public and affected agencies outside of the official comment period (including the extension of the comment period) to obtain views on the collections of information proposed, including the availability of data, frequency of collections, or recordkeeping and reporting requirements. Interested members of the public can provide FNS with comments concerning the necessity, practical utility, accuracy, and merit of the information collection activities discussed in the notice embedded in the final rule.

When FNS finalizes an information collection package, the package will be available through www.regulations.gov for review and comment by stakeholders such as State agencies, community groups, and the public regarding any legislative, regulatory, or administrative changes. FNS consults with its Regional Offices regarding any legislative, regulatory, or administrative changes. FNS Regional Offices are in daily contact with State agencies, which provide feedback on FNS processes and procedures for this information collection. Feedback from the State agencies is then used by FNS to help shape the burden estimates for this collection.

A9. Explain any decision 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.

No payment or gift will be provided to respondents.

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, 5 U.S.C. § 552a, which requires the safeguarding of individuals against invasion of privacy. No confidential information is associated with any rule-related requirements in this information collection. The recordkeeping and reporting requirements of the professional standards hiring exception and the recordkeeping requirements for the Buy American provision, the menu planning option, and the menu development to meet nutrition requirements involve no collection of confidential information, nor would any information collected be shared publicly. This information collection request does not request any personally identifiable information, nor does it include any forms that require a Privacy Act Statement. A review of this information collection was finalized by USDA's Privacy Office on April 16, 2024. The Privacy Office did not indicate the collection warrants any privacy statement, privacy impact analysis, or privacy threshold analysis, as no personal identifiable information is collected and maintained by the agency.

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 questions of a sensitive nature included 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.

This is a revision of a currently approved collection to add the new reporting and recordkeeping information requirements included in the final rule into the collection FNS estimates that the burden for the new reporting and recordkeeping information requirements resulting from this final rule will have 19,075 respondents, 403,520 responses, and 334,576 burden hours. There are no public notification requirements included in this information collection request. To estimate the reporting and recordkeeping burdens for this submission, Program Analysts analyzed each provision involving information collection to identify tasks necessary for compliance, as well as the frequency with which a State or local program operator may complete each requirement. Program Analysts also considered the hour burden of similar collection of information requirements that are covered in currently approved information collection requests. The results of the analysis are used to estimate the amount of time needed to perform the task or meet the requirement. The burden associated with these reporting requirements is estimated at 30 minutes (.50 hours) each and serves as a mean time of the various methods that might be used to meet each of the reporting requirements associated with the exception to hiring criteria. Once the

information collection request related to this rule is approved by OMB, FNS expects that the total information collection burden for this collection will be 115,935 respondents, 48,035,516 responses, and 10,143,277 burden hours. The hour burden and response estimations for each information requirement are reflected in the attached Burden Chart (Attachment A) and in the Burden Narrative (Attachment B), as well as summarized below.

Burden Summary of Reporting Requirements

Respondents (Affected Public): State agencies (State governments) and SFAs (local governments)

Estimated Number of Respondents: 1,007

Estimated Number of Responses per Respondent: 1.89

Estimated Total Annual Responses: 1,902

Estimated Time per Response: 30 minutes (.50 hours)

Estimate Total Annual Burden on Respondents: 951 hours

Reporting for OMB Control Number 0584-0006								
Description of Activities	**Regulation Citation**	**Estimated # of Respondents**	**Frequency of Response**	**Total Annual Responses**	**Average Burden Hours per Response**	**Estimated Total Annual Burden Hours Due to Final Rulemaking**	**Hours Currently Approved**	**Estimated Total Difference**
State agencies review and approve/deny each request to hire a school nutrition program director in a medium or large local educational agency who does not meet professional standards educational criteria	210.30(b)(1)(iv)	56	17	951	.5	476	0	476

Total State Agency Reporting		**56**		**951**		**476**	**0**	**476**
School food authorities develop and submit requests to hire a school nutrition program director in a medium or large local educational agency who does not meet professional standards educational criteria	210.30(b)(1)(iv)	951	1	951	.5	476	0	476
Total School Food Authority Reporting		**951**		**951**		**476**	**0**	**476**
Total Reporting		**1,007**	**1.89**	**1,902**	**.50**	**951**	**0**	**951**

Burden Summary of Recordkeeping Requirements

Respondents (Affected Public): State agencies (State governments) and SFAs (local governments).

Estimated Number of Respondents: 19,075

Estimated Number of Responses per Respondent: 21.05

Estimated Total Annual Responses: 401,618

Estimated Time per Response: Approximately 50 minutes (0.83 hours)

Estimate Total Annual Burden on Respondents: 333,625

Recordkeeping for OMB Control Number 0584-0006								
Description of Activities	**Regulation Citation**	**Estimated # of Respondents**	**Frequency of Response**	**Total Annual Responses**	**Average Burden Hours per Response**	**Estimated Total Annual Burden Hours Due to Final Rulemaking**	**Hours Currently Approved**	**Estimated Total Difference**
State agencies maintain school food authorities requests to hire	210.30(b)(1)(iv)	56	17	951	.25	238	0	238

individuals in medium or large local educational agencies who do not meet professional standards educational criteria.								
Total State Agency Recordkeeping		**56**		**951**		**238**	**0**	**238**
School food authorities maintain documentation of requests to hire individuals in medium or large local educational agencies who do not meet professional standards educational criteria	210.30(b)(1)(iv)	951	1	951	0.25	238	0	238
School food authorities maintain documentation demonstrating compliance with the Buy American provision	210.21(d)(5)	19,019	10	190,190	0.25	47,548	0	47,548
School food authorities include language requiring Buy American in all procurement procedures, solicitations, and contracts and maintain such documentation	210.21(d)(3)	19,019	1	19,019	10	190,190	0	190,190
School food authorities maintain records to demonstrate that schools are tribally operated, are operated by the Bureau of Indian Education, or serve primarily American Indian or Alaska Native students	210.10(c)(3)	317	1	317	1	317	0	317
SFAs develop menu	210.10(a)	19,019	10	190,190	0.50	95,095	0	95,095

records (beyond regular menu maintenance) that meet updated and new USDA specifications from the rule	(3)							
Total School Food Authority Recordkeeping		**19,019**		**400,667**		**333,387**	**0**	**333,387**
Total Recordkeeping Burden for OMB Control Number 0584-0006		**19,075**		**401,618**		**333,625**	**0**	**333,625**

Burden Summary for Total Collection for OMB Control Number 0584-0006	
TOTAL NO. RESPONDENTS	115,935
AVERAGE NO. RESPONSES PER RESPONDENT	414.33
TOTAL ANNUAL RESPONSES	48,035,516
AVERAGE HOURS PER RESPONSE	0.21
TOTAL BURDEN HOURS	10,143,277
CURRENT OMB INVENTORY	9,808,701
DIFFERENCE DUE TO FINAL RULE	334,576

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

FNS estimates that the total cost to respondents for this collection will be $13,565,941.60. The estimate of respondent cost is based on the burden estimates and utilizes the U.S. Department of Labor, Bureau of Labor Statistics, May 2022 National Occupational and Wage Statistics, Occupational Group 25-0000 (http://www.bls.gov/oes/current/oes_nat.htm). The hourly mean wage for education-related occupations for functions performed by State agency and local program staff are estimated at $30.41 per staff hour.

TOTAL COST TO PUBLIC = 334,576 hours x $30.41 per hour = $ 10,174,456.20. To account for fully-loaded wages, an additional $3,391,485.40 (33% of $10,174,456.20) has been added to $10,174,456.20 for a total respondent cost of $13,565,941.60. Once the final rule provisions are incorporated into the collection, FNS estimates that the respondent costs could be $410,281,796.16.

A13. Estimate of Other Total Annual Cost Burden.

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.

As a result of the implementation of the provisions in this rule, there will be some start-up and maintenance costs for this collection. In public comments, these include costs for such items as extra supplies or funding to implement the updated meal patterns, as well as costs for updating websites, materials, menus, and recipes. Another potential cost for SFAs detailed in public comments includes updating meal planning databases. Public comments also pointed to start-up costs for implementing the Buy American provision over time, mainly due to updated forms and labor associated with updating ordering procedures/documentation.

FNS estimates a cost of $50,000 per State agency to account for start-up costs associated with the rule, and an additional $1,000 per SFA to account for maintenance of databases, menu planning, materials, and other rule-related costs for the National School Lunch Program, under

OMB Control Number 0584-0006. This would result in a total of $2,800,000 in costs for State Agencies to account for a) total capital and start-up costs, and $19,019,000 in costs for SFAs to account for b) maintenance costs and continued operation of these rule elements. This equals $21,819,000 in total costs as a result of this final rule. This $21,819,000 would only be added to OMB Control Number 0584-0006 since these State agencies and SFAs operate both the NSLP and SBP.

A14. Provide Estimates of Annualized Cost to the Federal Government.

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 National Office employees spend time drafting the sections of the rule and regulations that pertain to the proposed and final collections of information, as well as spend time developing the information collection request to ensure compliance with the Paperwork Reduction Act. While the information collection requirements included in the final rule would not occur at the federal level, FNS National Office staff will be responsible for providing technical assistance webinars and policy guidance that would cover best practices for how respondents can meet the final collection of information requirements. FNS Regional Offices will also provide technical assistance in the form of answering questions submitted on behalf of program administrators at all levels about the collections of information. These tasks increase federal costs that would not otherwise be incurred without the collections of information.

The 2024 Federal Wage Salary Tables (2023 General Schedule (GS)) for Washington, DC-Northern Virginia areas were used to estimate the hourly wages for FNS staff (https://www.opm.gov/policy-

data-oversight/pay-leave/salaries-wages/2024/general-schedule). FNS estimates the hourly wage rate is $58.60 (GS 13, Step 2) for FNS National Office staff responsible for drafting rules and regulations. The estimated hourly wage rate for FNS National Office staff who work on technical assistance resources is $58.60 (GS 13, Step 2). The estimated average hourly rate for FNS Regional Office staff who provide technical assistance by responding to inquiries received from program administrators at all levels is $51.73 (GS 11, Step 10). It is estimated GS 13, Step 2 employees spend approximately 640 hours drafting, reviewing, and revising the proposed and final rule's language and its regulations on sections that pertain to the collections of information. It is estimated GS 13, Step 2 employees spend 80 hours developing and presenting technical assistance webinars, and 160 hours drafting, reviewing, revising policy guidance to provide information about the collection of information requirements and how they may be met. It is estimated GS 11, Step 10 employees would spend an estimated 160 hours developing responses and responding to incoming inquiries from program administrators at all levels. It is estimated that GS 14, Step 2 employees (including branch chief and senior technical advisor) would spend an estimated 60 hours reviewing each element of the rule completed. These estimates are based on FNS employees who work to complete these tasks. The table below shows estimations of the annualized sums of federal salary wages for each function FNS employees perform and the estimated total annual costs to the federal government. To account for fully loaded wages, an additional 33 percent of the totaled salary wages is added to estimate the total annualized costs to the federal government. The annualized costs related to the rule provisions is estimated to be $85,333.33. Once the final rule provisions are incorporated into the collection, FNS estimates that the costs to the federal government will be approximately $224,365.68.

FEDERAL COSTS OF CNP PERSONNEL					
FUNCTION	FNS NO/FNS RO	PAY SCALE	HOURLY PAY	ANNUAL STAFF HOURS	TOTAL COST
Developing the Rule and Regulations	FNS NO	GS 13, Step 2	$58.60	640 Hours	$37,504.00
Developing and Presenting TA Webinars	FNS NO	GS 13, Step 2	$58.60	80 Hours	$4,688.00
Developing Policy Guidance	FNS NO	GS 13, Step 2	$58.60	160 Hours	$9,376.00
TA – Responding to Program administrators	FNS RO	GS 11, Step 10	$51.73	160 Hours	$8,277.00
Branch Chief Review of Rule, TA Webinars, and Policy Guidance	FNS NO	GS 14, Step 2	$69.25	20 Hours	$1,385.00
Senior Technical Advisor Review of Rule, TA Webinars, and Policy Guidance	FNS NO	GS 14, Step 2	$69.25	40 Hours	$2,770.00
TOTAL SALARY WAGES					$64,000.00
FULLY LOADED WAGES (33%)					$21,333.33
TOTAL ANNUALIZED COST					$85,333.33

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 information collection to add new reporting and recordkeeping requirements outlined in the final rule into the collection. This information collection is currently approved with 115,935 respondents, 47,631,996 responses, 9,808,701 burden hours, and no annualized costs. As a result of the final rule, new reporting requirements for the professional standards exception will be added into the collection. In addition, new recordkeeping requirements for the professional standards exception, Buy American provision,

menu planning option in Trial Communities, and menu development resulting from updated nutrition requirements will also be added into the collection. In order to implement some of the final rule provisions, FNS believes that there will be associated maintenance and start-up costs for such things as extra supplies, updating websites, materials, menus, and recipes, and implementing the Buy American provisions as well. FNS estimates that the final rule will add 403,520 responses, 334,576 burden hours, and $21,819,000 in costs to this collection The final rule does not impact the total overall respondents for this collection. Once the information request for the final rule has been approved, FNS estimates that this collection will have 115,935 respondents, 48,035,516 responses, 10,143,277 burden hours, and $21,819,000 in costs.

The burden associated with the new information collection request may be found in Question A12 above, as well as the Burden Narrative (Attachment B).

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 collection does not employ statistical methods and there are no plans to publish the results of this collection for statistical use. There are also no plans to release summarized results of the activities in this information collection.

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 related instruments.

A18. Exceptions 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."

There are no exceptions to the certification statement.