

**DEPARTMENT OF AGRICULTURE****Food and Nutrition Service****Agency Information Collection****Activities: Fourth Access, Participation, Eligibility, and Certification Study Series (APEC IV)**

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a Reinstatement, with change, of a previously approved collection for which approval has expired (OMB Number 0584–0530, Discontinued: 10/31/2020); for the Fourth Access, Participation, Eligibility, and Certification Study Series (APEC IV).

**DATES:** Written comments must be received on or before October 4, 2021.

**ADDRESSES:** Comments may be sent to: Amy Rosenthal, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, 5th floor, Alexandria, VA 22314. Comments may also be via email to Amy Rosenthal at [amy.rosenthal@usda.gov](mailto:amy.rosenthal@usda.gov). Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of this information collection should be directed to Amy Rosenthal at [amy.rosenthal@usda.gov](mailto:amy.rosenthal@usda.gov), 703–305–2245.

**SUPPLEMENTARY INFORMATION:** *Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate

automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Title:* Fourth Access, Participation, Eligibility, and Certification Study Series (APEC IV).

*Form Number:* Not applicable.

*OMB Number:* 0584–0530.

*Expiration Date:* Not Yet Determined.

*Type of Request:* Reinstatement, with change, of a previously approved collection for which approval has expired.

*Abstract:*

USDA's Food and Nutrition Service (FNS) depends upon the APEC study series to provide reliable, national estimates of errors and improper payments made to school districts in which the National School Lunch Program and School Breakfast Program are operated. This is the fourth study in the APEC series and it will provide the required information for school year (SY) 2023–2024.

Program errors fall into three broad categories: Certification (determining the eligibility of a student for a given level of reimbursement), aggregation (adding up all the meal counts by reimbursement category as they are transmitted through the claims process), and meal claiming (ensuring that meals claimed meet the meal pattern requirements). Certification and aggregation errors contribute to improper payments, while meal claiming error is an operational error that does not result in an improper payment. The majority of improper payments in the programs result from certification errors, while aggregation errors are relatively rare.

The Payment Integrity Information Act of 2019 (PIIA) requires that FNS identify and reduce improper payments in these programs, including both underpayments and overpayments. In order to comply with the law, programs must have a statistically valid rate of improper payment below 10 percent, and programs out of compliance with PIIA are subject to increased scrutiny and reporting requirements.

Beyond statutory improper payment reporting requirements, FNS recognizes the human and economic costs of program error. For example, certification error may result in children being certified at a lower or higher level than the one for which they qualify; aggregation error may cause school districts to receive a lower or higher reimbursement than they should have received; and meal claiming error may result in a participant receiving a less balanced and nutritious meal than they

would have if the meal pattern was followed.

Although the APEC II and the forthcoming APEC III findings show substantial improvement in certain types of error since APEC I, there is an ongoing need to identify and correct sources of program error.

The specific study objectives of APEC IV are:

- Objective 1: Generate a national estimate of the annual amount of improper payments in the National School Lunch Program and School Breakfast Program based on SY 2023–2024 by replicating and refining the methodology used in prior APEC studies.
- Objective 2: Provide a robust examination of the relationship between error rates and student (household), school, and school food authority (SFA) characteristics.
- Objective 3: Conduct two sub-studies testing the effect that data collection methods have on responses.
  - Electronic Application Sub-study: Evaluate whether USDA's online application prototype with integrity features generates a more accurate and complete accounting of household size and income compared to other online application types and paper applications.
  - Mode Effect Sub-Study: Assess the effect of in-person versus telephone interviews on responses to the household survey.

Consistent with methodology used in the previous studies in the APEC series, we will collect data to address the study objectives using a multistage-clustered sample design, which will include:

- A nationally representative sample of SFAs in the contiguous 48 states and the District of Columbia;
- A stratified sample of schools within each SFA; and
- A random sample of students (households) within each sampled school that applied for free and reduced-price meals, were categorically eligible for free meals, or were directly certified for free meals.

APEC IV will collect data to measure certification, aggregation, and meal claiming errors via in-person visits to SFAs and schools and surveys of SFA directors and households. Data collection will include (a) abstraction from income eligibility applications and categorical eligibility records; (b) abstraction of meal count and claiming records from SFAs, schools, States, and FNS administrative data; (c) an online survey of SFA directors; (d) meal observations in schools; and (e) a telephone survey of households.

The analysis plan includes the following components: (a) Calculating error rates; (b) estimating improper payments; (c) comparisons to previous APEC estimates (APEC I, II, III); and (d) quantitative analyses to identify factors associated with errors. The calculation of estimates from APEC IV will include the incidence of error, the total dollar amount of error, and the dollar based error rate. The comparisons to prior APEC studies will include tests for significant changes over time. The quantitative analyses will examine the sources and causes of errors with a focus on identifying strategies for reducing errors.

*Affected Public:* Individuals/ Households and State, Local, or Tribal Governments. Respondent groups

identified include: (1) Child Nutrition State agencies, (2) SFAs, (3) schools, and (4) parents/guardians of sampled students that are either certified to receive a free or reduced price meal or who applied for but were denied benefits in SY 2023–24.

*Estimated Number of Respondents:* The estimated number of respondents is 13,068. This includes 5,210 responses and 7,858 non-responses. The number of unique respondents expected to provide data for this study are 4,112 households and 1,098 State and Local Governments (44 State Agencies, 295 SFAs, and 759 schools).

*Estimated Number of Responses per Respondent:* All respondents will be asked to respond to each specific data collection activity only once. The overall average number of responses per

respondent across the entire collection is 5.14.

*Estimated Total Annual Responses:* The estimated number of total annual responses is 67,317.

*Estimated Time per Response:* The estimated time of response varies from 1 minute to 4 hours depending on the respondent group, as shown in the burden table below. The estimated time per response is 11.49 minutes (0.191 hours).

*Estimated Total Annual Burden on Respondents:* 12,851.4 hours. This includes 12,419.6 hours for respondents and 431.7 hours for non-respondents. See the table below for estimated total annual burden for each type of respondent.

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Burden Table:

Respondent Category	Type of respondents	Instruments	Sample Size	Responsive					Non-Responsive					
				Number of respondents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Number of Non-respondents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Grand Total Annual Burden Estimate (hours)
Individuals/ Households	Pretest	Household Survey, including income documentation mode	9	9	1	9	0.75	6.8	0	1	0	0.0167	0.0	6.8
	Program Participants	Household Survey Recruitment Guide - Telephone Survey	11,723	4,103	1	4,103	0.0835	342.6	7620	1	7,620	0.0167	127.3	469.9
		Household Survey Brochure	11,723	4,103	1	4,103	0.0835	342.6	7620	1	7,620	0.0167	127.3	469.9
		Household Survey Recruitment Guide - Telephone Survey	5,471	4,103	1	4,103	0.167	685.2	1368	1	1,368	0.0501	68.5	753.7
		Household Confirmation and Reminder of Telephone Survey	4,103	4,103	1	4,103	0.05	205.6	0	1	0	0.0167	0.0	205.6
		Household Survey Recruitment Guide - In-Person Survey	375	300	1	300	0.167	50.1	75	1	75	0.0501	3.8	53.9
		Household Fact Sheet Re In-Person Survey	375	300	1	300	0.0334	10.0	75	1	75	0.0167	1.3	11.3
		Household Confirmation of In-Person Survey	375	300	1	300	0.05	15.0	75	1	75	0.0167	1.3	16.3
		Household recruitment website	5,471	1,641	1	1,641	0.4342	712.7	3830	1	3,830	0.0	0.0	712.7
		Household Survey Income Worksheet	5,471	4,103	1	4,103	0.334	1,370.4	1368	1	1,368	0.0167	22.8	1,393.2
		Downloading video call software for income verification	2,052	1,846	1	1,846	0.25	462.5	205.15	1	205	0.0	0.0	462.5
		Household Survey	5,471	4,103	1	4,103	0.75	3,083.4	1368	1	1,368	0.0167	22.8	3,106.3
Individuals/ Households Sub-Total			11,732	4,112	7.06	29,015	0.2511	7,286.8	7,620	3.10	23,604	0.016	375.0	7661.84
State Child Nutrition Agency	State Director	Official Study Notification from FNS Regional Liaisons to State CN Director, including sending study notification to SFAs	44	44	1	44	0.5	22.0	0	1	0	0.0167	0.0	22.0
		Unstructured qualitative interview	44	44	1	44	0.5	22.0	0	1	0	0.0167	0.0	22.0
		State Director Recruitment Website	44	44	1	44	0.5511	24.2	0	1	0	0.0167	0.0	24.2
	Data Manager	State Meal Claim Data Request	44	44	1	44	4.00	176.0	0	1	0	0.0167	0.0	176.0
SFA	SFA Director	SFA pretest	9	9	1	9	0.75	6.8	0		0	0.0167	0.0	6.8

		SFA Study Notification Template from State CN Director	336	286	1	286	0.0334	9.6	50	1	50	0.0334	1.7	11.2
		SFA Study Notification and Data Request + School Data Verification Reference Guide	336	286	1	286	3.00	858.0	50	1	50	0.5	25.0	883.0
		SFA Follow Up Discussion Guide (Study Notification and School Data Verification)	336	286	1	286	0.25	71.6	50	1	50	0.25	12.5	84.1
		Automated Email to Confirm Receipt of School Data	286	286	1	286	0.0167	4.8	0	1	0	0.0167	0.0	4.8
		SFA Confirmation and Next Steps Email	286	286	1	286	0.05	14.3	0	1	0	0.0167	0.0	14.3
		SFA School Sample Notification Email, including sending study notification to schools (using the Study Notification Template)	286	286	1	286	0.334	95.5	0	1	0	0.0167	0.0	95.5
		SFA Follow-Up Discussion Guide (School Sample Notification)	286	286	1	286	0.25	71.6	0	1	0	0.0167	0.0	71.6
		APEC IV Fact Sheet (for SFAs and Schools)	336	302	1	302	0.0835	25.3	33.6	1	34	0.0167	0.6	25.8
		SFA Director Recruitment Website	286	257	1	257	0.8016	206.3	28.6	1	29	0.0167	0.5	206.8
	SFA Staff	SFA Request and Reminder for E-Records (CEP Schools for ISP Data Abstraction)	213	181	1	181	0.5	90.7	32	1	32	0.0167	0.5	91.2
		SFA Request and Reminder for E-Records_Part A Prior SY (Non CEP Schools for Household Sampling)	123	105	1	105	1.00	105.0	18	1	18	0.0167	0.3	105.3
		SFA Request and Reminder for E-Records_Part B Current SY (Non-CEP Schools for Household Sampling)	105	105	1	105	1.00	105.0	0	1	0	0.0167	0.0	105.0
		Application Data Abstraction Form	105	105	1	105	1.00	105.0	0	1	0	0.0167	0.0	105.0
		SFA Initial Visit Contact Email with SFA and School Pre-Visit Interviews	286	286	1	286	0.334	95.5	0	1	0	0.0167	0.0	95.5
		SFA Data Collection Visit Confirmation Email	286	286	1	286	0.0835	23.9	0	1	0	0.0167	0.0	23.9
		SFA Data Collection Reminder Email	286	286	1	286	0.0835	23.9	0	1	0	0.0167	0.0	23.9
		SFA Director Web Survey	286	286	1	286	0.5	143.3	0	1	0	0.0167	0.0	143.3
	Data Manager	SFA Meal Participation Data Request	286	286	1	286	2.00	572	0	1	0	0.0167	0.0	572
		SFA Meal Claim Reimbursement Verification Form_Sampled Schools	286	286	1	286	0.5	143.3	0	1	0	0.0167	0.0	143.3
		SFA Reimbursement Consolidation and Verification Form_all schools	286	286	1	286	0.5	143.3	0	1	0	0.0167	0.0	143.3

Schools	School Principal	Email notification from SFA	938	750	1	750	0.0334	25.1	188	1	188	0.0167	3.1	28.2
		School Study Notification Letter	938	750	1	750	0.0835	62.6	188	1	188	0.0167	3.1	65.8
		School Follow Up Discussion Guide	938	750	1	750	0.334	250.5	188	1	188	0.0167	3.1	253.6
		School Confirmation Email	750	750	1	750	0.0835	62.6	0	1	0	0.0167	0.0	62.6
		School Notification of Household Data Collection	750	750	1	750	0.0835	62.6	0	1	0	0.0167	0.0	62.6
		APEC IV Fact Sheet (for SFAs and Schools)	938	750	1	750	0.1336	100.2	0	1	0	0.0167	0.0	100.2
	Cafeteria Manager	Meal Observation Pilot (Dual Camera and Paper Booklet Observations) <sup>j</sup>	9	9	1	9	1.50	13.5	0	1	0	0.0167	0.0	13.5
		School Data Collection Visit Confirmation Email	750	750	1	750	0.0334	25.1	0	1	0	0.0167	0.0	25.1
		School Data Collection Visit Reminder Email, including menu request	750	750	1	750	0.5	375.8	0	1	0	0.0167	0.0	375.8
		Paper Meal Observation Form/Camera protocol for meal observations	750	750	1	750	0.5	375.8	0	1	0	0.0167	0.0	375.8
		School Recruitment Website	938	563	1	563	0.4342	244.4	375	1	375	0.0167	6.3	250.6
		School Meal Count Verification Form	750	750	1	750	0.5	375.8	0	1	0	0.0167	0.0	375.8
	State/Local/Tribal Government Sub-Total		1,336	1,098	12.13	13,317	0.3854	5,132.8	238	5.05	1,201	0.047	56.7	5,189.52
<b>TOTAL</b>		<b>13,068</b>	<b>5,210</b>	<b>8.13</b>	<b>42,331</b>	<b>0.2934</b>	<b>12,419.6</b>	<b>7,858</b>	<b>3.16</b>	<b>24,805</b>	<b>0.017</b>	<b>431.7</b>	<b>12,851</b>	

Timothy English,

Acting Administrator, Food and Nutrition Service.

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Request for Information: Buy American in the National School Lunch Program and School Breakfast Program

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice: Request for information.

**SUMMARY:** This is a Request for Information from stakeholders, including local operators, State administrators, industry and producers, about the Buy American provision in the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). The NSLP and SBP, which are administered by the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS), play a critical role in ensuring that America's children have access to nutritious food they need to learn and succeed in the classroom, in addition to supporting American agriculture, and small, minority, and women's businesses and agricultural producers. In order to claim Federal reimbursement for meals served, school food authorities (SFAs) must follow Federal procurement and program regulations. These include the Buy American provision. The purpose of this Request for Information is to help FNS gather feedback from a wide variety of stakeholders on how the Buy American provision and guidance are currently implemented, changes FNS should make to current regulations and guidance and feedback on how FNS can better support local operators as they strive to purchase domestic foods and food products.

**DATES:** Written comments must be received on or before November 2, 2021.

**ADDRESSES:** USDA invites the submission of the requested information through one of the following methods:

- *Federal eRulemaking Portal (preferred method):* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Send written comments to the School Meals Monitoring Branch, Program Monitoring and Operational Support Division, Child Nutrition Programs, USDA Food and Nutrition Service, Braddock Metro Center II, 1320 Braddock Place, Alexandria, VA 22314.

All comments submitted in response to this Request for Information will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. USDA will make the comments publicly available via <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Jessica Saracino, School Meals Monitoring Branch, Program Monitoring and Operational Support Division, Child Nutrition Programs, USDA Food and Nutrition Service, 703-605-3223.

**SUPPLEMENTARY INFORMATION:** On January 25, 2021, President Biden signed the *Executive Order on Ensuring the Future is Made in All of America by All of America's Workers* (referred to as the Buy American Executive order hereafter) supporting the American economy by requiring terms and conditions of Federal financial assistance awards and Federal procurements to maximize the use of goods, products, and materials produced in, and services offered in, the United States. FNS is issuing this RFI in response to this Executive Order.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105-336) added a provision, Section 12(n) to the National School Lunch Act (NSLA) (42 U.S.C. 1760(n)), requiring school food authorities (SFAs) to purchase, to the maximum extent practicable, domestic commodities or products. This Buy American provision supports the mission of the Child Nutrition Programs, which is to serve children nutritious meals and support American agriculture. The existing regulatory provision stems directly from the statutory requirement.

The Buy American provision applies to SFAs located in the 48 contiguous United States and is one of the procurement standards these SFAs must comply with when purchasing commercial food and food products served in NSLP and SBP. Although Alaska, Hawaii, and the U.S. territories are exempt from the Buy American provision, SFAs in Hawaii are required to purchase food and food products produced in Hawaii in sufficient quantities, as determined by the SFA, to meet NSLP and SBP needs per 7 CFR 210.21(d)(3) and 7 CFR 220.16(d)(3). Likewise, SFAs in Puerto Rico are required to purchase food and food products produced in Puerto Rico in sufficient quantities, under 42 U.S.C. 1760(n)(4).

Section 12(n) of the NSLA defines "domestic commodity or product" as an agricultural commodity that is produced in the United States and a food product that is processed in the United States substantially using agricultural commodities produced in the United States. Report language accompanying the legislation noted that "substantially means over 51% from American products." Accordingly, FNS has established in guidance that over 51% of the final processed product must consist of agricultural commodities that were grown domestically. Thus, for foods that are unprocessed, agricultural commodities must be domestic, and for foods that are processed, they must be processed domestically using domestic agricultural food components that are comprised of over 51% domestically grown items, as determined by the SFA. Any processed product used must contain over 51% of the product's food component from United States origin. This definition of domestic product serves both the needs of schools and American agriculture. Foods and food products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are considered domestic products under this provision as these products are from the territories of the United States.

FNS has provided through guidance limited exceptions to the Buy American provision which allow for the purchase of foods not meeting the "domestic" standard as described above (*i.e.*, "non-domestic") in circumstances when use of domestic foods is truly not practicable. These exceptions, as determined by the SFA, are:

- The product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality; or
- Competitive bids reveal the costs of a United States product are significantly higher than the non-domestic product.

It should be noted that FNS has not defined a dollar amount or percentage triggering possible use of an exception. It is each individual SFA's responsibility to determine what dollar amount or percentage constitutes a significantly higher price thus permitting the use of the exception. If an SFA is using one of the above exceptions, there is no requirement at this time to request a waiver from the State agency or FNS in order to purchase a non-domestic product. SFAs must, however, keep documentation justifying their use of exception(s). State agencies must ensure SFA compliance with the Buy American provision when conducting oversight processes.