

## NOTE TO REVIEWERS

The Office of Inspector General (OIG) has reviewed the draft Revised FNS-252 Application published in the Federal Register on January 2, 2008, (see 73 Fed. Reg. 147) and has several comments.

As you may be aware, OIG has been contacted by certain United States Attorney's Offices expressing concerns regarding changes to the Food and Nutrition Service's (FNS) Food Stamp Program (FSP) Application for stores applying for authorization to participate in the FSP. One of their major concerns is the change from in-person training on program requirements to a system of simply mailing the training materials to store owners. They believe that this change may affect the Government's ability to prove the requisite knowledge and intent to establish criminal violations of the FSP.

We understand that FNS does not have the resources to conduct in-person training and will not entertain suggestions of reviving the in-person training program. However, we believe that certain changes to the draft Revised FNS-252 Application can resolve some of the potential issues regarding the new system that utilizes mailing instead of in-person training. Additionally, we have a number of other comments, based upon our review.

Our comments are as follows:

### **I. Instructions**

1. Page 1, Question 1–Store Opening Date: The last sentence reads, “The store must be **must be** open under your ownership and fully stocked before it can be licensed.” As the phrase “must be” is used twice, we suggest deletion of the extra “must be.”
2. Page 2, Question 8–Official Correspondence: Spell out Food Stamp Program before using the acronym “FSP.”

### **II. Application**

1. Question 14: We suggest that the question be changed to read as follows: “Has any officer, owner, partner, member, and/or manager ever been convicted of any crime after June 1, 1999.” We believe the change from “ever been convicted of **a** crime” to “ever been convicted of **any** crime” will make it clearer to the applicant that all convictions need to be disclosed.

We also request clarification regarding why the June 1, 1999, date is used.

We also suggest clarification that this question is seeking information regarding any crime, not just FSP violations.

2. Question 21: We suggest also asking if the store has optical scanners. This information would be helpful to OIG to identify violators, as high volume, high dollar transactions in

short periods of time are consistent with food stamp trafficking, as opposed to regular food sales, if a store is small and contains no optical scanners to facilitate fast checkouts of large grocery purchases.

3. We suggest that the application include a question asking for all managers' names, dates of birth, and social security numbers. Requiring this information on managers could reduce program vulnerabilities by preventing the establishment of straw owners. The information would also provide additional investigative leads to combat fraud in the FSP.
4. We suggest that the application include a question regarding whether the store owner has an ownership interest in any other store authorized to receive EBT. If the store owner does have an ownership interest in any other store authorized to receive EBT, the store owner should be required to list those stores. This information would establish patterns and affiliations between authorized retailers and their owners and managers that could prompt an inquiry into an applicant's capacity to own and operate a store.
5. We suggest that the application include a question regarding what bank and bank account numbers the store owner wants their EBT funds deposited. The bank account information will indicate where the EBT funds are being transferred to and could reduce delays in identifying and accessing pertinent financial data relevant to OIG investigations.
6. We suggest that applicants be asked what language they would prefer for the training material and training video. The training material is available in several languages. OIG understands that FNS mails the English version by default; then it is up to the store owner to request another language. The letter does state that the training material is available in 5 other languages. The problem, however, is that this sentence is in English. If the store owner cannot read English, then they will not know that the training material is available in other languages. Therefore, we suggest translating the paragraph regarding the training material into the 5 different languages that the training material is available in.

The language barrier is a concern since it makes it more difficult to prove the store owner was capable of understanding the program requirements such as the prohibition on the exchange of cash for benefits. It would be more beneficial and save the Department's resources if the store owner could request the training material up front in the language of their choice.

7. We suggest asking the applicant what format (VHS, CD, or DVD) they would prefer for the training video.
8. In processing the applications, we suggest crosschecking whether the applicants are also a food stamp recipient. This simple check would prompt an inquiry into an applicant's capacity to own and operate a store while still qualifying for food stamp benefits.

### **III. Privacy Act Statement**

Second Bullet: We suggest deletion of the word “local” before law enforcement agencies. We suggest the deletion of the word “local” as FNS should disclose information to law enforcement agencies, whether Federal, State, or local, when FNS becomes aware of a violation of the Food Stamp Act. FNS should not limit itself to disclosures only to “local” law enforcement agencies.

### **IV. Penalty Warning Statement**

We suggest the Penalty Warning Statement be located directly above the signature block.

### **V. Certification and Signature**

1. Sixth Bullet: This bullet states that “I have received or will receive FSP training material.” We suggest that this bullet be changed as follows: “I have received and reviewed all the FSP training materials concerning the rules and regulations of the FSP. On (fill in date), I reviewed the training materials and fully understand my responsibilities to ensure that the training materials are reviewed by all of the firm’s owners and all employees (whether paid or unpaid, new, full-time or part-time); and that all employees follow the FSP regulations.”

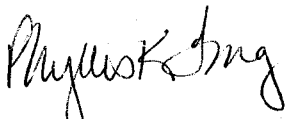
If the store owner has not received the training material prior to submitting the application, the store owner should be required to submit a separate signed certification document regarding the receipt and review of the training materials. The problem that could be encountered with the language “will receive FSP training material” is that the store owner could always argue that they never received the training materials. Additionally, we are aware that in executing search warrants in some stores, unopened business mail from FNS has been found, including a FNS training video in its original packaging. A separate certification would eliminate store owners’ claims that they never received the training materials.

2. We suggest that store owners be required to have the Certification and Signature page notarized. The notary requirement would address the concern that the Government will not be able to establish that the person in whose name the application was submitted was the one actually responsible for completing and submitting the application.
3. Seventh Bullet: The last part of this bullet currently states that, “I am aware that violations of the FSP rules can also result in State and/or local criminal prosecution and sanctions.” We suggest that the above language be changed to “I am aware that violations of the FSP rules can also result in Federal, State, and/or local criminal prosecution and sanctions.” The word Federal should be added so it is clear that store owners can be prosecuted by the Federal Government for FSP violations.
4. Eleventh Bullet: This bullet currently states that “Participation can be denied or withdrawn if my firm violates any laws or regulations issued by State or local agencies,

including civil rights laws and their implementing regulations.” We suggest that this language be changed as follows: “Participation can be denied or withdrawn if my firm violates any laws or regulations issued by Federal, State, or local agencies, including civil rights laws and their implementing regulations.” We believe that this change is important so that it is clear to store owners that their ability to participate in the FSP is contingent on them following Federal laws and regulations.

Per FNS’ request, we shared the draft Revised FNS-252 Application with the Department of Justice for their review and comment. Additionally, we will provide a copy of these comments to the Department of Justice, including the particular the United States Attorney’s Offices that have shared their relevant concerns with us.

Thank you for the opportunity to comment on the draft Revised FNS-252 Application.

A handwritten signature in black ink, appearing to read "Phyllis K. Fong". The signature is fluid and cursive, with the first name "Phyllis" being more prominent.

Phyllis K. Fong  
Inspector General