

May 27, 2025

VIA EMAIL

Kevin Lynch, FOIA Officer  
Food, Nutrition, and Consumer Services  
U.S. Department of Agriculture  
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## FOIA Request

Dear FOIA Officer:

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 and its relevant implementing regulations 7 C.F.R. § 1.1 *et seq.*, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the U.S. Department of Agriculture (“USDA”)’s Food and Nutrition Service (“FNS”).

EPIC seeks documents related to the FNS’s May 2025 demand to states<sup>1</sup> and state service providers<sup>2</sup> for individualized SNAP applicant and recipient data.

### Documents Requested

EPIC seeks the following records concerning the FNS’s May 2025 demand for individualized SNAP applicant and recipient data (“SNAP data”) from states and state service providers:

1. All proposed and final System of Records Notices (“SORNs”) prepared pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a, for the system(s) of records that the FNS has used or will use to store and/or retrieve the SNAP data;
2. All Information Collection Review documentation prepared pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 *et seq.*, concerning the FNS’s collection of the

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<sup>1</sup> Gina Brand, *FNS Data Sharing Guidance*, USDA Food & Nutrition Serv. (May 6, 2025), <https://www.fns.usda.gov/snap/data-sharing-guidance>.

<sup>2</sup> Jude Joffe-Block & Stephen Fowler, *USDA, DOGE demand states hand over personal data about food stamp recipients*, NPR (May 9, 2025), <https://www.npr.org/2025/05/09/nx-s1-5389952/usda-snap-doge-data-immigration>.

SNAP data;

3. All Privacy Impact Assessments prepared pursuant to section 208 of the E-Government Act of 2002, 44 U.S.C. § 3501 note, concerning:
  - a. The FNS's collection of the SNAP data, and/or
  - b. The information technology which the FNS has used or will use to collect, maintain, and disseminate the SNAP data;
4. All correspondence between the FNS and states or state service providers concerning the FNS's May 2025 demand for SNAP data.

This request pertains to records created or provided to the FNS between January 20, 2025, and the time this request is processed.

### Background

In March 2025, President Trump issued an executive order purporting to direct sweeping changes to federal data protection practices.<sup>3</sup> The order instructs agencies, including the USDA and FNS, to “take all necessary steps, to the maximum extent consistent with law, to ensure the Federal Government has unfettered access to comprehensive data from all state programs that receive federal funding, including, as appropriate, data generated by those programs but maintained in third-party databases.”<sup>4</sup> As EPIC warned at the time, the order signaled “the administration’s intent to further defy federal privacy safeguards, force states to hand over their own sensitive datasets, and potentially make legally protected statistical information available to the Elon Musk-led DOGE [Department of Government Efficiency] for its own ends.”<sup>5</sup>

On May 6, 2023, Gina Brand, Senior Policy Advisor for Integrity at FNS, informed states via letter that USDA/FNS was seeking unprecedented access to state-held SNAP data.<sup>6</sup> Through that letter (styled as “guidance”), USDA/FNS (1) announced that it was seeking SNAP cardholder and transaction data directly from the states’ EBT vendors/processors, and (2) directed states to work through their processors to submit SNAP applicants’ PII (including Social Security numbers, dates of birth and addresses) and the value of their SNAP benefits received.<sup>7</sup>

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<sup>3</sup> Exec. Order 14,243, Stopping Waste, Fraud, and Abuse by Eliminating Information Silos (Mar. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/03/stopping-waste-fraud-and-abuse-by-eliminating-information-silos/>.

<sup>4</sup> *Id.*

<sup>5</sup> *Latest Executive Order Threatens to Shred Federal Privacy Protections, Hoard Personal Data for DOGE Use*, EPIC (Mar. 21, 2025), <https://epic.org/press-release-latest-executive-order-threatens-to-shred-federal-privacy-protections-hoard-personal-data-for-doge-use/>.

<sup>6</sup> *FNS Data Sharing Guidance*, *supra* note 1.

<sup>7</sup> *Id.*

The FNS's collection of personally identifiable information concerning SNAP recipients and applicants triggers multiple statutory record creation and disclosure obligations.

First, pursuant to the Privacy Act, the FNS must publish in the Federal Register a System of Records Notice ("SORN"), identifying, *inter alia*, the name and location of the system that will be established or modified for maintenance or retrieval of the newly-collected SNAP data; the categories of individuals on whom records are maintained in the system; the purpose for which information about an individual is collected; the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of records; and the procedures by which individuals can request notification of and access to information pertaining to them.<sup>8</sup> At least 30 days before publishing a SORN, the FNS agency must also publish notice in the Federal Register "of any new use or intended use of the information in the system" that will be used to maintain or retrieve the SNAP data and provide an opportunity for interested parties to submit "written data, views, or arguments to the agency."<sup>9</sup>

Second, pursuant to the Paperwork Reduction Act, the FNS must publish information regarding the collection of the SNAP data, including a "description of the need for the information," the "proposed use of the information," "a description of the likely respondents and proposed frequency of response" to the information collection, "an estimate of the burden that shall result" from the information collection, and "notice that comments may be submitted" regarding the collection.<sup>10</sup> Prior to conducting a covered collection, an agency must provide both a 60-day notice in the Federal Register seeking public comment and, separately, "consult with members of the public and affected agencies" about the collection.<sup>11</sup>

Third, pursuant to section 208 of the E-Government Act, the FNS must conduct, review, and if practicable publish a Privacy Impact Assessment ("PIA") concerning both (1) the new collection of personally identifiable SNAP recipient and applicant information; (2) the information technology which the USDA/FNS has used or will use to collect, maintain, and disseminate the SNAP data.<sup>12</sup> The PIA must address

1. what information is to be collected;
2. why the information is being collected;
3. the intended use of the agency of the information;
4. with whom the information will be shared;
5. what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;
6. how the information will be secured; and

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<sup>8</sup> 5 U.S.C. § 552a(e)(4).

<sup>9</sup> 5 U.S.C. § 552a(e)(11).

<sup>10</sup> 44 U.S.C. § 3507(a)(1)(D).

<sup>11</sup> *Id.* § 3506(c)(2)(A).

<sup>12</sup> E-Government § 208(b).

7. whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the ‘Privacy Act’).<sup>13</sup>

To EPIC’s knowledge, none of the above-described records have been published in the Federal Register, on any webpage maintained by the USDA or the FNS, or by any other means. EPIC therefore seeks these records through this FOIA request.

#### Request for Waiver of Fees

EPIC is a “representative of the news media” for fee classification purposes. *EPIC v. DOD*, 24 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC’s status as a “news media” requester, EPIC is entitled to receive the requested records with only duplication fees assessed. 5 U.S.C. § 552(a)(4)(A)(ii)(II); 7 C.F.R. §1 app. A (2)(b)(4)(ii).

Furthermore, any further fees should be waived because (1) the disclosure of the documents requested is “likely to contribute significantly to public understanding of government operations or activities,” and (2) not in the commercial interest of EPIC, the requester. 5 U.S.C. § 552(a)(4)(A)(iii); 7 C.F.R. §§ 1.12(p)(1)(i)-(ii).

1. *Disclosure will contribute significantly to the public understanding of FNS’s compliance with its statutory record creation and disclosure obligations.*

EPIC is entitled to a fee waiver because disclosure of the requested records is “likely to contribute significantly to public understanding of the operations or activities of the government” and therefore in the public interest. 7 C.F.R. § 1.12(p)(1)(i). In determining whether the disclosure will contribute to the public understanding, the USDA considers: (i) whether the subject of the request concerns identifiable operations or activities of the Federal government with a “direct and clear” connection, (ii) whether disclosure will be “likely to contribute” to an increased public understanding of those operations or activities, (iii) whether disclosure will contribute to the understanding of a reasonably broad audience of persons interested in the request, and (iv) whether disclosure will enhance the public’s understanding of the subject in question by a significant degree. 7 C.F.R. §§ 1.12(p)(3)(i)-(iv).

First, EPIC’s request has a “direct and clear” connection to “identifiable operations or activities” of the FNS, a subcomponent of the USDA, a federal agency. 7 C.F.R. § 1.12(p)(3)(i). EPIC requests records concerning the FNS’s efforts to collect SNAP data from states and state service providers that are statutorily required by the Privacy Act and the Paperwork Reduction Act. Further, the FNS’s SNAP data collection efforts are being carried out pursuant to Executive Order 14243’s directive to agency heads to “take all necessary steps” to ensure the Federal Government has unfettered access to comprehensive data from all state programs that receive federal programming.<sup>14</sup> The requested records have a direct and clear connection federal data

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<sup>13</sup> *Id.* § 208(b)(2)(B)(ii).

<sup>14</sup> *Id.*; See also Executive Order 14,243, *supra* note 3.

collection efforts publicly disclosed by the FNS and pertain to specific, identifiable FNS activity. *Id.*

Second, disclosure of the requested records will contribute to an increased public understanding of the FNS's data collection efforts. 7 C.F.R. §1.12(p)(3)(ii). Disclosure of the requested information would shed light on the FNS's compliance with its statutory record creation and disclosure obligations. *Id.* This information is particularly valuable because it is not already in the public domain. *Id.* The requested records contain (or should contain) detailed information relevant to protecting the privacy and the security of individuals and their personal information.<sup>15</sup> Thus disclosure of the requested records will contribute to increased public understanding of the FNS's data collection efforts. *Id.*

Third, disclosure will also contribute to the understanding of a reasonably broad audience of interested persons rather than just EPIC's individual understanding. 7 C.F.R. § 1.12(p)(3)(iii). EPIC is entitled to the presumption that this condition is met as a representative of the news media. *Id.* Furthermore, the FNS's SNAP data collection effort is a broadly controversial topic. The public, the press, and civil society organizations are deeply concerned about the Federal government's attempts to collect state level SNAP data.<sup>16</sup> The information requested regarding the FNS's SNAP data collection efforts will attract significant public interest. EPIC is well positioned to effectively convey information on this program to the public due to its nationally recognized expertise and publications on issues of privacy and surveillance. *Id.*

Finally, the requested information will enhance the public's understanding of the FNS's data collection efforts to a significant degree. 7 C.F.R. § 1.12(p)(3)(iv). Disclosure of the requested records would reveal where the FNS's SNAP data is stored, the categories of data collected, the purpose of such collection, and key agency policies regarding the data's storage, retrievability, access, and retention.<sup>17</sup> Disclosure would also help members of the public—in particular, SNAP recipients and applicants—understand how to exercise their access and correction rights with respect to such data.<sup>18</sup> Furthermore, disclosure will provide the public insight as to how their respective states are responding to the FNS's data collection effort as there is currently limited visibility.<sup>19</sup> Thus, the requested information will enhance the public's understanding to a "significant degree." *Id.*

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<sup>15</sup> See 5 U.S.C. § 552a(e)(4); 44 U.S.C. § 3507(a)(1)(D).

<sup>16</sup> Jude Joffe-Block, *Privacy advocates urge states not to comply with USDA requests for food stamp data*, NPR (May 13, 2025), <https://www.npr.org/2025/05/13/nx-s1-5397208/doge-snap-usda-privacy>.

<sup>17</sup> 5 U.S.C. § 552a(e)(4).

<sup>18</sup> *Id.*

<sup>19</sup> Currently, at least four states have publicly disclosed they will share data. See James Brooks, *Alaska gives food stamp recipients' personal information to federal officials*, Alaska Beacon (May 15, 2025), <https://alaskabeacon.com/2025/05/15/alaska-gives-food-stamp-recipients-personal-information-to-federal-officials/> (Alaska); Ainsley Platt, *Arkansas shares certain SNAP applicant numbers with federal government*, Arkansas Advocate (May 22, 2025), <https://arkansasadvocate.com/2025/05/22/arkansas-shares-certain-snap-applicant->

## 2. *Disclosure is not primarily in the commercial interest of EPIC*

EPIC is entitled to a fee waiver because disclosure is not primarily in the commercial interest of EPIC, the requester. 7 C.F.R. § 1.12(p)(1)(ii). In determining whether disclosure is in the requester's commercial interest, the USDA considers (i) any commercial interest of the requester, and (ii) whether the public interest is greater than any identified commercial interest. 7 C.F.R. §§ 1.12(p)(4)(i)-(ii).

EPIC is a nonprofit research center and representative of the news media.<sup>20</sup> EPIC was established to protect privacy, freedom of expression, and democratic values in the information age. EPIC regularly publishes informative blog posts and reports based on information obtained through public records requests. EPIC's request does not further any commercial, trade, or profit interests. 7 C.F.R. § 1.12(p)(4)(i).

Furthermore, as EPIC is a news media requester, there is a presumption that "the public interest will be the interest primarily served by disclosure to that requester." 7 C.F.R. § 1.12(p)(4)(ii). Additionally, EPIC does not sell, compile, or market government information obtained through public records requests for direct economic return. *Id.* EPIC's interest is in transparency and accountability, not monetary reward. Therefore, a fee waiver is proper because disclosure is not primarily in the commercial interest of EPIC.

In summary, EPIC is entitled to have its request processed with only duplication fees assessed because of its status as a news media representative. Further, EPIC is entitled to a fee waiver because its request is in the public interest and not primarily in EPIC's commercial interest.

### Request for Expedited Processing

EPIC is entitled to expedited processing of this request under the FOIA. 5 § U.S.C. 552(a)(6)(E); 7 C.F.R. § 1.6(e). USDA regulations provide for expedited processing where an individual primarily engaged in disseminating information makes the request and there is an urgency to inform the public about an actual or alleged federal government activity. 7 C.F.R. § 1.6 (e)(1)(ii).

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numbers-with-federal-government/; Zachary Oren Smith, *Iowa to deliver SNAP recipient data to the federal government*, Iowa Starting Line (May 16, 2025), <https://iowastartingline.com/2025/05/16/iowa-hands-over-personal-data-trump-federal-government-to-deliver-snap-recipient-data-to-the-federal-government/> (Iowa); Jude Joffe-Block & Stephen Fowler, *Lawsuit challenges USDA demand for food stamp data as some states prepare to comply*, NPR (May 22, 2025), <https://www.npr.org/2025/05/22/nx-s1-5407994/usda-doge-snap-nutrition-privacy> (Ohio). Other states such as Kansas have denied the FNS's requests. See Morgan Chilson, *Kansas denies USDA request for personal data of residents receiving food assistance*, Kansas Reflector (May 22, 2025), <https://kansasreflector.com/2025/05/22/kansas-denies-usda-request-for-personal-data-of-residents-receiving-food-assistance/>.

<sup>20</sup> About us, EPIC.org, <https://epic.org/about/>.

First, EPIC is entitled to expedited processing because EPIC is primarily engaged in disseminating information. Again, EPIC is a news media requester and nonprofit research center that regularly publishes informative materials to the public analyzing issues of privacy and government oversight. Thus, EPIC is primarily engaged in disseminating information to the public. *Id.*

Second, EPIC's request involves an urgency to inform the public regarding actual or alleged FNS activities. *Id.* EPIC requests information regarding the FNS's efforts to collect SNAP data from states and state service providers. As established, the FNS's activities implicate the Privacy Act as well as the Paperwork Reduction Act and corresponding statutory obligations that protect the personal information of SNAP recipients. These data collection efforts are ongoing, and several states have reportedly agreed to disclose the requested personal information.<sup>21</sup> Thus, there is an urgency to inform the public of the FNS's activities so that SNAP recipients and applicants are aware of the risks and can take steps to avoid potential privacy and security harms before they occur. *Id.*

For these reasons, EPIC is entitled to expedited processing of this request. EPIC certifies that the above is true and correct based on information and belief. *Id.* at § 1.6(e).

### Conclusion

Thank you for your consideration of this request. EPIC anticipates your response to its request within ten (10) calendar days. 5 U.S.C. § 552(6)(E)(ii)(I); 7 C.F.R. § 1.6(e)(2). For questions regarding this request, please contact Kabbas Azhar, [azhar@epic.org](mailto:azhar@epic.org), cc: [foia@epic.org](mailto:foia@epic.org).

Respectfully submitted,

/s/ Kabbas Azhar

Kabbas Azhar

EPIC Law Fellow

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<sup>21</sup> See list of states, *supra* note 20.