

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSION**

**MIGRANT EDUCATION PROGRAM (MEP)
REGULATIONS §§ 200.83, 200.84, and 200.88**

A. Justification

Q1. 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.

A1. The collection of information results from implementation of §§ 200.83, 200.84, and 200.88 of the current final regulations for the Title I, Part C Migrant Education Program (MEP).

A copy of the current final regulations (issued in December 2002) and the relevant statutory sections are attached. [The actual text of these current regulations are found at 67 FR 77736-38].

§ 200.83 of the regulations for the Title I, Part C establishes the minimum requirements an SEA must meet for development of a comprehensive needs assessment and plan for service delivery as required under Section 1306(b) of the Elementary and Secondary Education Act (ESEA), as amended (P.L. 107-110). § 200.84 of the final regulations establishes the minimum requirements the SEA must meet to implement the program evaluation required under Section 1304(c)(2) of ESEA. § 200.88 of the final regulations clarifies that, for the purposes of the MEP, only "supplemental" State or local funds that are used for programs specifically designed to meet the unique needs of migratory children can be excluded in terms of determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute.

On May 4, 2007, ED published a Notice of proposed rulemaking (NPRM) proposing to revise the Title I, Part C regulations to establish a number of additional regulatory requirements for data collection by the SEAs. A new information collection package – including estimates of the increased burden associated with the NPRM as well as the continuing burden of the existing requirements -- was also developed and made available via EDICS for public comment. The time needed to develop responses to the public comments on both the NPRM and the information collection package made it necessary for OMB to issue an emergency extension of the existing information clearance through 1/31/08. The terms of clearance for this last approval (granted on 7/31/07) noted that ED should submit non-emergency extension request sufficiently prior to the expiration date to allow for a 60-day period of OMB review.

This information collection package – requesting a continuation without change -- is necessary for ED to continue to have OMB authority after 1/31/08 to require SEAs to carry out these existing regulatory data collection requirements while ED is in the process of completing a final regulatory notice (and associated information collection package) that would establish, by regulation, new data collection requirements on the SEAs in addition to the current requirements.

Without this continuation, ED and its SEA MEP grantees would lack OMB approval to collect critical data necessary to carry out their statutory responsibilities to: design and implement a statewide MEP that addresses the identified needs of migratory children in the State; evaluate or improve the delivery of program services statewide; and exclude "supplemental" State or local funds in determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute.

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Q2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

A2. The needs assessment and service delivery information required by § 200.83 will be used by the SEA to design and implement an effective statewide MEP. The evaluation information required by § 200.84 will be used by the SEA to assess the effectiveness of the statewide MEP, and to promote improved service delivery. The advance written determination by an SEA required by § 200.88 (that a State or locally funded program meets the intents and purposes of part C of Title I) will be used by the SEA to support the exclusion of "supplemental" State or local funds in determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute. This collection of information does not require the information collected to be submitted to ED: instead, it is for SEA use in designing, operating and evaluating their State MEP.

Q3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

A3. The regulations do not require nor preclude SEAs from using information technology to reduce burden.

Q4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use of the purposes described in Item 2 above.

A4. The needs assessment and service delivery information, the evaluation information, and the advance written determination supporting the exclusion of "supplemental" State or local funds in determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute required by this collection are unique to this program and the particular grantee. Other than state assessment data to be collected under the Title I assessment requirements, the information to be collected by the SEA under §§ 200.83, 200.84, and 200.88 is not in any other data collection, and is necessary for it to design, implement, and improve its statewide MEP.

Q5. 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.

A5. Small businesses are not impacted by this data collection.

Q6. Describe the consequences 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.

A6. If the information collection under these regulations is not conducted, the SEA grantees of the MEP would be unable to design and implement a statewide MEP, evaluate or improve the delivery of program services statewide, or exclude "supplemental" State or local funds in determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute.

Q7. Explain any special circumstance 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;*

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- *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 secrets, 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.*

A7. The regulations do not require the information collection to be conducted in a manner inconsistent with the requirements of 5 CFR 1320.5.

Q8. *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.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, 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 periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

A8. A notice of proposed rulemaking was published in the Federal Register on August 6, 2002. The comment period closed on September 5, 2002. No specific comments were received from the public on the cost and hour burdens relative to §§ 200.83, 200.84, and 200.88. No public comments of any kind were submitted relative to § 200.88. The only public comments submitted relative to §§ 200.83 and 200.84 proposed minor editorial changes. A more complete summary of comments/responses is included in the final regulations package published in the Federal Register on December 2, 2002. A copy of the final regulations is attached – see p. 71737 for the final regulatory language and p. 71771 for the summary of comments/responses.

The new notice of proposed rulemaking published on May 4, 2007 addressed proposed new data collection requirements and did not address any of the requirements addressed in this continuation package.

Q9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

A9. The regulations do not require gifts or payments to be made to respondents.

Q10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.*

A10. The regulations require no assurance of confidentiality.

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Q11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and 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.

A11. The regulations do not require any questions of sensitive nature in this collection of information.

Q12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*
- 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.*
- Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.*

A12. Estimated hour burden for the collection of information.

We estimate that it will require approximately 1,023.50 hours per State to address the requirements of §200.83. We estimate that it will require approximately 423.85 hours per State (biennially) to address the requirements of §200.84. We estimate that it will require approximately 4 hours per State (on a one-time basis) to address the requirements of §200.88. These estimates were developed by program staff with prior experience in the State-level administration of the MEP. [See the tabular summaries below for a fuller explanation of how these estimated burden rates were calculated.]

Total Burden Hours

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§ 200.83	Frequency of response	# of Respondents	Average # of Hours per respondent	Total Hours	Description
Needs Assessment	One Time				
Data Collection	Activities One Time	52 SEAs	643.50	33,462	This estimate includes the time required to design and collect information through surveys of samples of parents, staff and LEAs with migrant students regarding migrant students' needs and the whether other programs' services are already available.
Analysis & Reporting	One Time	52 SEAs	160	8,320	This estimate includes the time for SEA staff to analyze the collected needs assessment data and summarize the results.
Plan Development	One Time	52 SEAs	160	8,320	This estimate consists of the time needed for SEA staff to draft, revise and clear a comprehensive service delivery plan that responds to the identified needs of students and coordinates services across the MEP and other available services.
Plan Update	Biennial	52 SEAs	20	3,120	This estimate consists of the time needed for SEA staff to update the comprehensive service delivery plan in response to the results of program evaluations.
Total for §200.83		52	1,023.50	53,222	

§ 200.84 Activities	Frequency of response	# of Respondents	# of Hours per respondent	Total Hours	Description
Evaluation	Biennial				
Data Collection	Biennial	52 SEAs	103.85	5,400	This estimate consists of the time to collect project observation data in a 30 percent samples of MEP project sites nationally. (The estimate does not include the time associated with collecting student-level assessment data since student assessment data is exempt from the paperwork clearance process.)
Analysis & Reporting	Biennial	52 SEAs	320	16,640	This estimate consists of the time needed for SEA staff to analyze and summarize the project and student data to determine the effectiveness of the State's MEP program.
Total for §200.84		52	423.85	22,040	Biennially

§ 200.88 Activities	Frequency of response	# of Respondents	# of Hours per respondent	Total Hours	Description
Written determination	Once	52	4	208	This estimate consists of the time needed for SEA staff to analyze and prepare a written determination in support of an exclusion.
Totals for § 200.88		52	4	208	One-time

Estimates of annualized burden:

- Amortized over the six-year ESEA authorization, **the annual burden to address the § 200.83 "Needs Assessment" and initial "Plan Development" requirements** would be: 50,102 hours / 6 years = **8,350.33 hours/year**. Amortized over a biennial period, **the total annual burden to address the § 200.83 "Plan Update" requirements** would be: 3,120 hours / 6 years = **520 hours/year**. Therefore **the total annual burden to address the § 200.83 requirements** would be: **8,870.33 hours/year**.
- Amortized over a biennial period, **the total annual burden to address the § 200.84 requirements** would be: 22,040 hours / 2 years = **11,020 hours/year**.
- Amortized over the six-year ESEA authorization, **the total annual burden to address the § 200.88 requirements** would be: 208 hours / 6 years = **34.67 hours/year**.

Estimates of annualized cost to respondents.

Estimating respondent cost at an average of \$25/ hour, the average cost per State would be:

- \$25 x 1,023.50 hours = \$25,587.50 per State to address the § 200.83 requirements. Amortized over the six-year ESEA authorization, **the annual cost per SEA to address the § 200.83 requirements** would be: \$25,587.50 / 6 years = **\$4,264.59/year**.
- \$25 x 423.85 hours = \$10,596.25 per State to address the § 200.84 requirements (biennially). Amortized over a biennial period, **the annual cost per SEA to address the § 200.84 requirements** would be: \$10,596.25 / 2 years = **\$5,298.13/year**.
- \$25 x 4 hours = \$100.00 per State to address the § 200.88 requirements (on a one-time basis). Amortized over the six-year ESEA authorization, **the annual cost per SEA to address the § 200.88 requirements** would be: \$100.00 / 6 years = **\$16.67/year**.

The total estimated cost would be:

- \$25,587.50 x 52 SEAs = \$1,330,550 to address the § 200.83 requirements (on a one-time basis).) Amortized over the six-year ESEA authorization, **the annual total cost to address the § 200.83 requirements** would be: \$1,330,550 / 6 years = **\$217,788.33/year**.
- \$10,596.25 x 52 SEAs = \$551,005 to address the § 200.84 requirements (biennially).) Amortized over a biennial period, **the annual total cost to address the § 200.84 requirements** would be: \$551,005 / 2 years = **\$275,502.50/year**.
- \$208.00 x 52 SEAs = \$5,200 to address the § 200.88 requirements (on a one-time basis). Amortized over the six-year ESEA authorization, **the annual total cost to address the § 200.88 requirements** would be: \$5,200 / 6 years = **\$866.67/year**.

Q13. Provide an estimate 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 estimate 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. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*
- *If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*
- *Generally, estimates should not include purchases of equipment or services, or portions thereof, made:*

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(1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

A13. Not applicable.

Q14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

A14. Estimated annualized Federal cost:

There are no Federal costs associated with this collection of information beyond the effort normally associated with Department staff conducting program monitoring. In that context, Department staff could be expected to spend five hours reviewing a State Education Agency's needs assessment and service delivery plan, two hours reviewing a State Education Agency's program evaluation, and one-half hour reviewing State Education Agency's written determination supporting the exclusion of State or local funds from "comparability" and "supplement, not supplant" provisions of the statute in preparation for program monitoring developed under of § 200.83, 200.84, and 200.88 respectively.

Estimated Annualized Federal Cost of Review

§ 200.83 Activities						
Number of Needs Assessments & Service Delivery Plans	Review Time	Total Review Time	Wage Rate for Personnel	Total Personnel Cost	Other Costs	Total Cost of Review
52	5 hours	260 hours	\$32.09	\$8,343.40	0.00	\$8,343.40

§ 200.84 Activities						
Number of Program Evaluations	Review Time	Total Review Time	Wage Rate for Personnel	Total Personnel Cost	Other Costs	Total Cost of Review
52	2 hours	104 hours	\$32.09	\$3,337.36	0.00	\$3,337.36

§ 200.88 Activities						
Number of Program Evaluations	Review Time	Total Review Time	Wage Rate for Personnel	Total Personnel Cost	Other Costs	Total Cost of Review
52	.5 hours	26 hours	\$32.09	\$834.34	0.00	\$834.34

Q15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

A15. No changes.

Q16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for

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the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

A16. The collection of information does not require publication of the information or use of complex analytical techniques. The needs assessment and service delivery plan need to be implemented at least once during the current period of authorization for ESEA as amended. The program evaluation needs to be implemented biennially during the current period of authorization for ESEA as amended. The needs assessment and service delivery plan need to be implemented at least once during the current period of authorization for ESEA as amended. The SEA's advance written determination that a State or locally funded program meets the intents and purposes of part C of Title I need to be implemented at least once during the current period of authorization for ESEA as amended.

Q17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

A17. Given that the information collection will be conducted by SEAs, the proposed display of the expiration date of OMB approval for the data collection would be inappropriate because the collections are being done by SEAs rather than the Federal Government or through a Federal contractor.

Q18. Explain each exception to the certification statement identified in Item 20, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

A18. There are no proposed exceptions to the certifications.

B. Collections of Information Employing Statistical Methods

The regulations do not require that statistical methodology be employed. However, for §§ 200.83 and 200.84, SEAs are likely to employ statistical samples of students, staff, and programs sites when collecting this information to reduce burden.