

SUPPORTING STATEMENT

A. JUSTIFICATION

Q1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attached is a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Secretary reviewed the Title I regulations issued in October 2008 (73 FR 64436 (Oct. 29, 2008)) and sent a letter to all Chief State School Officers discussing the Title I regulations. The Secretary indicated in that letter that he would consider, in accordance with his authority under section 9401 of the Elementary and Secondary Education Act (ESEA), requests for waivers of two Title I, Part A regulatory provisions governing the implementation of public school choice and supplemental educational services (SES). Additionally, although not specifically mentioned in that letter, the Secretary is also considering requests for waivers related to another requirement governing the implementation of SES.

In addition, the U.S. Department of Education (ED) informed State educational agencies (SEAs) that it would consider requests for waivers of certain statutory requirements that govern the use of Title I, Part A funds, as those requirements relate to funds allocated under the American Recovery and Reinvestment Act of 2009 (ARRA). The waivers of requirements related to the use of Title I, Part A ARRA funds will be granted under section 9401 of the ESEA.

Third, ED informed SEAs and local educational agencies (LEAs) that it would consider requests to waive the maintenance of effort (MOE) requirements in sections 1120A(a) and 9521 of the ESEA. These waivers will be granted under section 9521 of the ESEA.

ED needed to indicate to SEAs and LEAs how they could receive one or more of the foregoing waivers. To assist with this process, ED issued guidance on obtaining waivers (Waiver Guidance). The Waiver Guidance identifies the information that must be submitted to ED with the waiver request in accordance with section 9401 or 9521 of the ESEA, as applicable. The Waiver Guidance, therefore, includes information collections (i.e., the information required by the ESEA for ED to grant waivers) for which ED obtained emergency approval from the Office of Management and Budget (OMB).

ED also recognized that it would need regular approval of the information collection activities in the Waiver Guidance because some of the activities will occur after the emergency approval expires on January 31, 2010. For example, due to the timing of the Title I, Part A MOE process, ED expects the bulk of the MOE waiver requests to be submitted after next January. In addition, by September 30, 2010 SEAs must report on waivers already approved by ED in accordance with section 9401. Therefore, the *Federal Register* Notice indicated that ED was requesting emergency approval and regular approval of the Waiver Guidance.

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.

ED will review the information provided in the waiver requests to determine whether to grant the waivers requested.

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.

Waiver requests may be submitted to ED by e-mail or in hard copy. In an effort to reduce administrative burdens, ED indicates in the Waiver Guidance that e-mail is the preferred method of submission.

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.

There is no duplication in the collection.

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.

Consistent with all ESEA requirements, in the Waiver Guidance, ED encourages SEAs to submit waiver requests on behalf of their LEAs, including small LEAs. This approach will help minimize burden on small LEAs while still enabling them to implement a waiver.

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.

If the collection is not conducted, ED will not be able to obtain the information it needs to review and grant waiver requests with respect to the use of Title I, Part A ARRA funds, with respect to certain Title I, Part A statutory and regulatory provisions related to public school choice and SES, including those discussed in the Secretary's letter, and with respect to Title I, Part A MOE requirements.

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;*
- *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.*

This collection is consistent with 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 those 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 preclude consultation in a specific situation. These circumstances should be explained.

The Department has provided the public with an opportunity to comment during the 60-day period for the regular collection. This information collection is consistent with the statutory requirements that govern the waiver of a statutory or regulatory requirement under Title I, Part A of the ESEA. The public also had an opportunity to comment during the period the emergency request was pending.

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

No payments or gifts to respondents have been made.

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

There is no assurance of confidentiality.

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.

There are no questions of a sensitive nature.

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.

As noted above, under the ESEA, both SEAs and LEAs may apply to ED for waivers. ED expects some LEAs to request waivers directly from ED. In many cases, however, because SEAs may apply on behalf of their LEAs, we expect the burden to be shared between SEAs and LEAs. The following tables provide ED’s estimates for SEAs and LEAs.

The total burden hours remains the same as what was approved under the emergency collection. The hours for some specific activities for the regular collection vary from the emergency collection, however. The variations are due to the fact that ED expects more MOE requests during the period of the regular collection than during the emergency collection, fewer requests responding to the other invited waivers during the same period, and the fact that SEAs are required to report information to ED for waivers already approved during the period of the regular collection.

State Educational Agency Estimate

Title I, Part A Waiver Activity	Number of SEA Requests	Hours/Activity	Hours	Cost/Hour	Cost
ARRA Funds (Section 9401)	52	20	1,040	\$32	\$33,280
Title I Statutory and Regulatory Provisions (Section 9401)	52	20	1,040	\$32	\$33,280

Section 9521 (MOE)	52	80	4,160	\$32	\$133,120
Total			6,240	\$32	\$199,680

Local Educational Agency Estimate

Title I, Part A Waiver Activity	Number of LEA Requests	Hours/Activity	Hours	Cost/Hour	Cost
Section 9401	875	24	21,000	\$27	\$567,000
Section 9521 (MOE)*	300	8	2,400	\$27	\$64,800
Total			23,400	\$27	\$631,800

* Consistent with 34 C.F.R. § 299.5, ED’s MOE regulations, LEAs that did not maintain effort in SY 2008-09 would have their FY 2010 (SY 2010-11) Title I, Part A allocations reduced due to the MOE requirements. As a result, ED expects more MOE waiver requests during the period of the regular collection than the emergency collection.

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: (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.

There are no costs that (a) meet the criteria for inclusion under this item and (b) have not been addressed in either item #12 or #14.

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.

The Federal costs will involve reviewing the waiver requests. We estimate a cost of \$462,707 to review and respond to the requests.

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

There is no change in burden hours.

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

There are no plans to publish the results of this data collection.

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.

No request is being made to not display the expiration date for OMB approval of the information collection.

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

There are no exceptions to the referenced certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.