

Guidance on the Maintenance-of-Effort (MOE) Requirements in the State Fiscal Stabilization Fund Program:

SUPPORTING STATEMENT

FOR PAPERWORK REDUCTION ACT SUBMISSION

A. Justification

A.1. 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.

The U.S. Department of Education’s (ED) Office of Elementary and Secondary Education (OESE) recently issued the guidance and an application for a new program, the State Fiscal Stabilization Fund (Stabilization) program. The Stabilization Program was established in the “American Recovery and Reinvestment Act of 2009,” which was signed into law by the President on February 17, 2009. The Stabilization program provides \$53,600,000,000 to States to keep teachers in the classroom, to prevent the cutting of valuable education programs, and to help mitigate college tuition increases. Additionally, the Stabilization program will provide resources that States and districts may use to implement important education reforms, such as launching strategies that address inequities in the distribution of highly qualified teachers, building robust data systems that allow districts to better track student achievement, raising standards and strengthening student assessments, and turning around failing schools.

Under the Stabilization program, a State must maintain State support for elementary and secondary education, in each of fiscal years 2009, 2010, and 2011, at least at the level that the State provided in FY 2006. Similarly, a State must maintain State support for public institutions of Higher education (IHEs), not including support for capital projects or for research and development or tuition and fees paid by students, in each of fiscal years 2009, 2010, and 2011, at least at the level of such support in FY 2006. This statutory requirement is called the maintenance-of-effort (MOE) requirement.

In its application, a State must either assure that it will meet the MOE requirement or that, if it does not meet one or more of the MOE requirements, it will meet the criterion for a waiver of the MOE requirement. A State that indicates that it meets the criterion for a waiver of the MOE requirement must submit an application for such a waiver. A State seeking a waiver must provide the Department with: (1) data that specifically address the MOE waiver criterion for the applicable years; and (2) an assurance of the Governor or his/her authorized representative that the State has available for inspection documentation that demonstrates that these data are accurate, valid, and reliable. The Department is requesting clearance for Guidance on the

Maintenance-of-Effort Requirements in the State Fiscal Stabilization Fund Program. The Guidance provides additional information on the statutory MOE requirements and the process through which a State applies for an MOE waiver, and a sample of a waiver request form.

A.2. 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.

The information collected is in the form of an MOE waiver request form within the MOE waiver guidance. To be considered for an MOE waiver under the Stabilization program, a Governor must submit to the Department a Request for a Waiver of the MOE Requirement Governing the State Fiscal Stabilization Program, that provides the following information:

1. The fiscal years for which the MOE waiver is requested, and
2. Financial information for each fiscal year for which the waiver is requested.

This is a new collection. The Department will review the waiver requests for eligibility and will grant waivers that meet the criteria laid out in the MOE guidance. The Department will use the information collected from this grant application to maintain a record of eligibility and financial information of States eligible for an MOE waiver.

A.3. 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.

The information requested under this collection will be gathered by email, fax, or other non-electronic means such as courier or postal service. The Department is not employing electronic means beyond email for this collection due to the very short timeframe of this waiver request process as well as the low number of expected waiver requests. The Department expects to receive no more than 10 waiver requests under this collection, and therefore has sufficient capacity to deal with the number of email or paper-based submissions. The information gathered through this process is detailed in A.2.

A.4. 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.

The information requested under this collection is unique to the Stabilization program MOE waiver request process, and the Department has not collected this information in the past.

A.5. 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.

State governors are eligible to submit an MOE waiver request. No small businesses or entities will be impacted by this collection.

A.6. 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.

Failure to meet the MOE requirements could affect a State's ability to participate in the program. Therefore, it is extremely important that States have access to the additional guidance on the requirements for receiving an MOE waiver and the level of detail and form that will be needed to apply for an MOE waiver.

A.7. Explain any special circumstances 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 than 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.

A.8. 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.

Although this collection will be submitted under emergency processing, the public will have an opportunity to comment during this emergency processing.

A.9. 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.

A.10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality.

A.11. 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. The 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.

A.12. Provide estimates of the hour burden of the collection of information.

A. Burden hours for respondents

The Department estimates that approximately 10 State governors will request an MOE waiver. The average burden for the MOE waiver request form is estimated to be one hour per applicant, for 10 burden hours total. This is a new collection, with no prior basis for calculation of burden for most portions of the application. An estimate of burden was calculated based on program staff experience that it would take a typical governor's staff member or team of staff members that amount of time (one hour) to complete the waiver request form, including gathering the required information.

B. Cost to Respondents

The Department estimates that the per-hour cost at the Governors office staff level will average \$40 per person (GS-13 equivalent) hour for a total of \$400 (=1 hr x \$40 x 10 respondents).

A.13. 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.)

There are no start-up costs for this collection.

A.14. 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 waivers, verifying the collected amounts, and granting the waivers to States:

- Grade 13: 20 hours at \$43.04/hour = \$860.80
- Grade 14: 5 hours at \$50.86/hour = \$254.30
- Grade 15: 5 hours at \$61.76/hour = \$308.80

Estimated Federal cost = \$1,423.90

A.15. Explain the reasons for any program changes or adjustments to #16f of the IC Data Part 1 Form.

This is a new collection related to a new program.

A.16. 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.

Some of the information collected in this waiver request form may be analyzed with performance data and shared on a government website such as recovery.gov or ed.gov.

A.17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The expiration date will be displayed on the form.

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

The Department is not requesting any exception to the Certification.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.