SUPPORTING STATEMENT

Information Collections under the Final Regulations Governing the Criteria for Foreign Schools to Apply to Participate in Title IV, HEA Programs

RIN-1840-AD03

A. Justification

1. Necessity of Information Collected

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.

This request is for approval of new requirements to policies and procedures implementing provisions related to the eligibility of foreign schools to apply to participate in Title IV, HEA programs that were added by the Higher Education Opportunity Act of 2008 (HEOA). The HEOA added specific new reporting requirements for foreign graduate medical schools and foreign nursing schools in relation to acceptable minimum test scores. These final regulations also implement new policies to ensure comparability between domestic institutions and foreign institutions regarding academic year definitions for non-degree programs and showing the method used to show that equivalency. And these regulations update current regulations to require development and collection of consent forms that students in nursing and graduate medical programs will have to complete to allow the schools to request specified test scores from appropriate testing agencies and to then report those scores to their accrediting agency, and the Department as required. Also the regulations require additional reporting by graduate medical schools to their accrediting agencies of any material changes to the education programs offered or changes to the oversight bodies or affiliation agreements with hospitals and clinics. Foreign graduate medical schools are also now required to publish all of the languages in which instruction is offered. These changes require new additional burden that had not previous been required of foreign institutions.

2. Purpose and Use of Information Collected

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.

<u>Subpart E – Eligibility of Foreign Institutions to Apply to Participate in the Federal Family Education Loan (FFEL) Programs - OMB 1845-NEWA</u>

Sections 600.54, 600.55, and 600.57 contain collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)), the Department of Education is submitting a copy of these sections to the Office of Management (OMB) for its review.

The information identified below will be used by the Department during the initial review for eligibility certification, recertification and annual evaluations. We are making the following changes in order to ensure that all foreign institutions participating in the Title IV, HEA programs are meeting the minimum participation standards.

Section 600.54 – Criteria for determining whether a foreign institution is eligible to apply to participate in the FFEL programs.

The final regulation in §600.54 (e)(3)(ii) requires foreign institutions receiving Title IV, HEA program funds to demonstrate to the satisfaction of the Department that their method of determining academic work in a non-degree program is equivalent to the definition of an academic year that is required for domestic schools (§668.3) in determining program eligibility. This determination is made on a program by program basis by the Department in both initial and recertification reviews.

Section 600.55 – Additional criteria for determining whether a foreign graduate medical school is eligible to apply to participate in the Title IV, HEA programs.

Final §668.55(c)(2) requires a foreign graduate medical school to determine the consent requirements to meet their specific country's privacy laws and require the necessary consents of all students, who are U.S. citizens, nationals, or eligible permanent residents, that have been accepted for admission to enable the foreign school to comply with the collection and submission requirements in §600.55(d) for Medical College Admission Test (MCAT) scores, residency placement, and U.S. Medical Licensing Examination (USMLE) scores.

Section 600.55(d) include the changes to reporting requirements for foreign graduate medical schools as identified in HEOA Section 102(a)(2)(A)(i).

The final regulations in §600.55(d)(1) require a foreign graduate medical school to obtain, at its own expense, and by April 30 of each year submit to its accrediting authority for all students who are U.S. citizens, nationals, or eligible permanent residents: (i) MCAT scores, for those admitted during the preceding award year and the number of times each student took the exam; (ii) the percentage of students graduating during the preceding award year who are placed in an accredited U.S. medical residency; (iii) all USMLE scores earned during the preceding award year, disaggregated by step 1, step 2-CS and step2-CK, by each student and graduate and the date each student took each test, including any failed tests and (iv) a statement of its citizenship rate for the preceding calendar year and the methodology used to obtain the rate. A school would have to submit the data on MCAT scores and placement in an U.S. residency to the Department only upon request, but would be required to submit the USMLE data to the Department by April 30, unless notified by the Department. These changes are required by statutory changes in HEOA section

New final regulation §600.55(d)(2) allows for certain foreign medical schools to allow direct reporting of USMLE and/or citizenship pass rates to the Secretary by the Educational Commission for Foreign Medical Graduates (ECFMG) or another responsible third party. This will require the school to submit a written consent acceptable to the Department in which the school agrees that the pass rates calculated will be considered conclusive for purposes of

compliance with the required rates. In this context, ECFMG or others will contract with the Department, and the school's burden is based on development and submission of acceptable written consent to use the rates as calculated.

The final regulations at §600.55(e)(2) require a foreign graduate medical school to notify their accrediting body within one year of any material changes in (1) the educational programs, including clinical training programs; and (2) the overseeing bodies and in the formal affiliation agreements with hospitals and clinics.

Finally, the regulations in §600.55(g)(3) require a foreign graduate medical school to publish all the languages in which instruction is offered.

Section 600.57 – Additional criteria for determining whether a foreign nursing school is eligible to apply to participate in the FFEL program.

This section adds new specific regulations for foreign nursing schools as identified in HEOA Sections 102(a)(2)(A).

The final regulations add a new section specifying additional Title IV, HEA eligibility criteria for foreign nursing schools. The foreign nursing school eligibility includes, among other items §600.57(a)(6)(i), where the school must determine the consent requirements to meet their specific country's privacy laws for, and require the necessary consents of, all students accepted for admission who are U.S. citizens, nationals, or eligible permanent residents, to enable the school to comply with the requirements for collection and submission requirements identified in §600.57(a)(6)(ii).

The foreign nursing school eligibility also includes §600.57(a)(6)(ii) where annually, (A) at its own expense, obtain all results on the NCLEX-RN achieved by students and graduates who are U.S. citizens, nationals, or eligible permanent residents, together with the dates the student has taken the examination (including any failed examinations) and provide the results to the Department; or (b) as an alternative to obtaining the NCLEX results individually, the school may obtain a report or reports from the National Council of State Boards of Nursing (NCSB), or an NCSB affiliate or NCSB contractor, reflecting the percentage of the school's students and graduates taking the NCLEX-RN in the preceding year who passed the examination, or the data from which the percentage could be derived, and provide the report to the Department.

3. Consideration of Improved Information Technology

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 given to using technology to reduce burden.

Institutions may use computer and Internet technology to image, transmit, and receive the supporting documents. Institutions are encouraged to make available documents that need to be completed by students on their Internet sites if possible.

4. Efforts to Identify Duplication

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

There is no duplication of data as a result of the collection of this information.

5. Burden Minimization as Applied to Small Business

If the collection of information impacts small businesses or other small entities (Item 8b of IC Data Part 2), describe any methods used to minimize burden.

No small businesses are impacted by this collection.

6. Consequences of Less Frequent Data Collection

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.

Report submission and information change requirements are imposed to assure accountability of program participants for proper program administration and less frequent collection could impair accountability of program participants. Additionally, the receipt of proper consent forms helps to ensure that funds being disbursed to students at these institutions meet eligibility requirements.

7. Special Circumstances Governing Data Collection

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 that 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.**

The information collection requirements do not require special circumstances. This application is consistent with all of the guidelines in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

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.

The Department of Education (Department) announced in a September 9, 2009 Federal Register notice (74 FR 46399), the Department's intention to establish negotiated rulemaking committees to prepare regulation under Title IV of the HEA. These committees were formed as a result of a Federal Register notice published on May 26, 2009 (74 FR 24728) which announced a series of three regional hearings at which interested parties could comment on topics suggested by the Department and suggest additional topics for consideration. The Department negotiated with members of the community during three sessions in early 2010.

A Notice of Proposed Rulemaking as well as 30-day and 60-day notices were published in the Federal Register seeking public comment.

There were no public comments received on the paperwork reduction section of the NPRM, or to the 60 and 30-day Federal Register notices.

9. Payments or Gifts to Respondents

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

No payments or gifts will be provided to the respondents.

10. Assurance of Confidentiality

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 provided to institutions for the submission of this information.

11. Questions of a Sensitive Nature

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.

The Department is no requesting any sensitive data.

12. Annual Hour Burden for Respondents/Recordkeepers

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 16 of IC Data Part 1.**

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.

The additional burden hours calculated below include time for reviewing the change in regulations; for determining the method and means to incorporate changes; develop or update systems and forms and formats for gathering the required information; and to prepare any required reports. The burden is all related to reporting.

Section 600.54 – Criteria for determining whether a foreign institution is eligible to apply to participate in the FFEL programs.

§600.54 (e)(3) – Demonstration of academic year equivalency in non-degree programs.

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
Private institutions			
33	33	X .17	6
Public institutions			
93	93	X .17	16
TOTAL for §600.54			
126	**126**		**22**

Section 600.55 – Additional criteria for determining whether a foreign graduate medical school is eligible to apply to participate in the Title IV, HEA programs.

§600.55(c)(2) – Admission criteria

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
Individual			
2,800	2,800	X.08	224
For-profit institutions			
3	3	X .50	2
Private institutions			
5	5	X .50	3
Public institutions			
58	58	X .50	29
TOTAL			
2,866	2,866		258

§600.55(d)(1) – Collection and submission of data.

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
For-profit institutions			
3	3	X 1.41	4
Private institutions			
7	7	X 1.41	10
Public institutions			
36	36	X 1.41	51
TOTAL			
46	46		65

§600.55(d)(2) – Alternate submission of data.

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
Private institutions			
3	3	X .75	2
Public institutions			
22	22	X .75	17
TOTAL			
25	25		19

§600.55(e) – Requirements for clinical training.

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
For-profit institutions			
1	1	X .82	1
Private institutions			
3	3	X .82	3
Public institutions			
15	15	X .82	12
TOTAL			

19	19		16

§600.55(g) – Other criteria.

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
For-profit institutions			
3	3	X .33	1
Private institutions			
10	10	X .33	3
Public institutions			
58	58	X .33	19
TOTAL			
71	71		23
TOTAL for §600.55			
3,027	**3,027**		**381**

Section 600.57 – Additional criteria for determining whether a foreign nursing school is eligible to apply to participate in the Title IV, HEA programs.

§600.57(a)(6)(i) – Consent forms

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
Individual			
1,200	1,200	X.08	96
For-profit institutions			
3	3	X .50	1.5
SUBTOTAL			
1,203	1,203		97.5

§600.57(a)(6)(ii) – Reporting requirements

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
For-profit institutions			

3	3	X 1.50	4.5
SUBTOTAL			
3	3		4.5
TOTAL for §600.57			
1,206	**1,206**		**102**
GRAND TOTAL			
4,359	***4,359***		***505***

13. Start-Up Cost Burden to the Respondents

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 acquiring and maintaining 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.**

Total Annualized Capital/Startup Cost :

Total Annual Costs (O&M) :

Total Annualized Costs Requested :

There are no new system start-up costs associated with these regulations.

14. Estimated Annual Cost to the Federal Government

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.

There are no additional costs to the Federal government as a result of the final regulation.

15. Reasons for Changes to Burden Hour Estimated

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

Some of these changes to the current regulations are due to statutory changes from the Higher Education Opportunity Act of 2008, HEOA. The burden increase of 71 respondents and 84 hours in Section 600.55(d) and the increase of 1,206 respondents and 102 hours in Section 600.57(a) are due to statutory changes. These sections include the changes to reporting requirements for foreign graduate medical schools and add new specific regulations for foreign nursing schools as identified in HEOA Sections 102(a)(2)(A) and 102(a)(2)(A)(i). The remaining burden of 3,082 respondents and 319 hours is due to programmatic changes. The Department reviewed the current regulations with an eye to ensuring comparability between domestic and foreign institutions regarding academic year definitions for non-degree programs as well as updating current regulations.

16. Collection of Information with Published Results

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.

The results of the collection of information will not be published.

17. Approval to Not Display Expiration Date

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 Department is not seeking this approval.

18. Exception to the Certification Statement

Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.

The Department is not requesting any exceptions to the "Certification of Paperwork Reduction Act Submissions."