SUPPORTING STATEMENT

Information Collections under the Proposed Regulations Institutional Eligibility under the Higher Education Act of 1965, as amended – Subpart B – Procedures for Establishing Eligibility

RIN 1840-AD03 and RIN 1840-AD04

Justification

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.

Necessity of Information Collected

The changes made to Office of Management and Budget (OMB) No. 1845-0012 are a result of two separate regulation packages that each impact 34 CFR 600.20. One package focuses on foreign schools and one package focuses on the gainful employment rules. The foreign schools package also impacts §600.21.

This request regards the changes to the regulations for foreign schools to notify the Department of additions to the type and location of clinical training offered by foreign graduate medical schools unless the location meets explicit exemption criteria. Also, the final regulations require that the foreign institution provide copies of affiliation agreements with hospitals and clinics that provide the clinical training. These changes to the current regulations are needed to ensure the proper oversight of Title IV, HEA program for the foreign graduate medical institutions that have U.S. students attending eligible programs and who receive federally insured student loans.

In addition, the final regulations regarding gainful employment require institutions to apply to the Department for approval to add new programs that are subject to the gainful employment regulations. The Department will review the institution's narrative application that explains why and how the new program was developed to meet local market needs or in the case of an online program, regional or national market needs. The institution's application must describe how the program was reviewed or approved by, or developed in conjunction with business advisory committees, program integrity boards, public or private oversight or regulatory agencies, and businesses that would employ graduates of the new programs.

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.

Purpose and Use of Information Collected

Institutional Eligibility - Subpart B – Procedures for Establishing Eligibility

(OMB control number 1845-0012)

Section 600.20 – Application procedures for establishing maintaining, or expanding institutional eligibility and certification.

RIN 1840-AD03

The final regulations in §600.20(a)(3)and §600.20(b)(3) provide that, for initial certification or for recertification, a foreign graduate medical school (i.e., a freestanding foreign graduate medical school or a foreign institution that includes a foreign graduate medical school) be required to list on the application to participate, all educational sites and where they are located, except for those locations that are not used regularly, identify, for each clinical site reported in the certification or recertification application, the type of clinical training (core, required clinical rotation, not required clinical rotation) offered at that site, indicate whether it offers only post-baccalaureate/equivalent medical programs, other types of programs that lead to employment as a doctor of osteopathic medicine, doctor or medicine, or both and provide copies of the affiliation agreements with hospitals and clinics that it is required to have as a part of any application for initial certification or recertification to participate in the Title IV, HEA programs.

RIN 1840-AD04

The final regulations in §600.20(d) require that institutions apply to the Department for approval to add new programs that are subject to the gainful employment regulations. The Department will review the institution's narrative application that explains why and how the new program was developed to meet local market needs or in the case of an online program, regional or national market needs. The institution's application must describe how the program was reviewed or approved by, or developed in conjunction with business advisory committees, program integrity boards, public or private oversight or regulatory agencies, and businesses that would employ graduates of the new programs. Under this final regulation, institutions will be required to submit any other information that the Secretary may request related to the additional program. In the event that the Department contemplates denial of a new program, it will contact the institution to identify areas of concern and permit the institution to supplement its application with additional information.

RIN 1840-AD03

Section 600.21 – Updating application information.

The final regulations in §600.21(a)(10) require, if a foreign graduate medical school adds a location which offers all or a portion of the school's clinical rotations that are not required, that the school notify the Department no later than 10 days after the location is added, except for those locations that are included in the accreditation of a medical program accredited by the LCME, or those that are not used regularly.

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 given to using technology to reduce burden.

Consideration of Improved Information Technology

Institutions must use the E-App to submit an initial request for certification of eligibility, a recertification of eligibility, and certain specified changes to a school's programs, personnel or structure. Institutions may use computer and Internet technology to image, transmit, and receive the supporting documents.

The changes to the reporting requirements for both §§600.20 and 600.21will be captured in the *Electronic Application for Approval to Participate in Federal Student Financial Aid Programs* (E-App). When an institution submits a new program to the Department for approval, the narrative explaining why and how the new program was designed will be added to the E-App in Section K, Question 69. Note that the E-App is an electronic form that must be submitted electronically to the Department with hard copies of any required documents and signatures following by mail. Attached to this paperwork clearance package is a draft of the questionnaire in a pdf format which shows the corrections that are being requested to the language of the form. The E-App pdf is illustrative of the questions included in the E-App but cannot be filled out and submitted by a school wishing initial or continuing eligibility determinations. Additional information about the E-App process is available at http://www.eligcert.ed.gov/ including the paperwork reduction statement in the information section of the application page.

4. 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.

Efforts to Identify Duplication

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

5. 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.

Burden Minimization as Applied to Small Business

No small businesses are impacted by this collection.

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.

Consequences of Less Frequent Data Collection

The requirements to keep the Department informed of changes or additions to locations utilized by the foreign graduate medical school is necessary to ensure that only authorized locations are funded and that institutions and students are not receiving aid for which they are not eligible.

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 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.**

Special Circumstances Governing Data Collection

This application is consistent with all of the guidelines in 5 CFR 1302.5(d)(2).

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.

Consultation Outside the Agency

The Department of Education (Department) announced in a May 26, 2009 Federal Register notice (74 FR 24728), its intention to establish negotiated rulemaking committees to prepare proposed regulation under Title IV of the HEA and 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 committees were formed as a result of a Federal Register notice published on September 9, 2009 (74 FR 46399) which announced the specific topics suggested by the Department and the public during the hearings and based on statutory changes. Team I – Program Integrity Issues included "Gainful employment in a recognized occupation" and Team II – Foreign Schools Issues included eligibility issues required by section102 (a)(1)(B) of the Higher Education Opportunity Act (HEOA) for foreign medical schools.

The Notice of Proposed Rulemaking (NPRM) for Foreign Institutions was published on July 20, 2010 (see 75 FR 42190). The NPRM for Program Integrity: Gainful Employment was published on July 26, 2010 (see 75 FR 43616). While the public provided comments on the substance of each of the NPRMs, none of the comments directly related to the burden assessments in the NPRMs.

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

Payments or Gifts to Respondents

No payments or gifts will be provided to the respondents.

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

Assurance of Confidentiality

These requirements do not cover any confidential information.

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.

Questions of a Sensitive Nature

The Department is no requesting any sensitive data.

12. 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.**

Annual Hour Burden for Respondents/Recordkeepers

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 the required reports.

The regulatory change in 34 §§ CFR 600.20(b)(3) and 600.21(a)(10) are made in conjunction with statutory changes from section 102(a)(1)(B) of the HEOA. The HEOA allows a foreign graduate medical school that was eligible based on having a clinical training program approved by a State to continue to be eligible as long as it has been continuously operating a clinical training program in at least one State that approved the program. The HEOA also allows for the promulgation through regulation of new eligibility criteria for foreign graduate medical schools that have a clinical training program approved by a State. This requires the expanded reporting that has been added to these two regulatory sections.

The regulatory changes to 34 §§CFR 600.20 (b)(3), 600.20(d), and 600.21(a)(10) are all reporting changes.

Section 600.20 – Application procedures for establishing maintaining, or expanding institutional eligibility and certification.

§600.20(b)(3) – Reapplication.

It is anticipated that for this information collection all of the 71 foreign graduate medical schools will submit a reapplication to participate to include all of the school's educational sites including those sites where clinical training is provided with minor exceptions, including the type of clinical training being provided, whether the school offers only post-baccalaureate/equivalent medical programs, other types of programs that lead to employment as a doctor of osteopathic medicine, doctor of medicine, or both, as well as the submission of copies of the formal affiliation agreements with hospitals/clinics providing some or all of the clinical training.

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours
For-profit institutions			
3	3	X .58	2

Private institutions			
10	10	X .58	6
Public institutions			
58	58	X .58	34
TOTAL			
71	*71*		*42*

§600.20(d) – Application format.

For this section, the calculation of the burden hours is based on the number of new programs (degree and nondegree) that are anticipated and the number of individual and grouped submissions required for those new programs through a notification process. The final regulations establish that the institution must provide notice prior to offering Title IV, HEA program assistance to eligible students in these new programs at least 90 days prior to the time when the institution plans to offer the new program. The institution's notice to the Department of a new program is in the form of a narrative that explains why and how the new program was designed to meet local market needs or in the case of an online program, regional or national market needs. The notice must indicate how the program was reviewed or approved by, or developed in conjunction with business advisory committees, program integrity boards, public or private oversight or regulatory agencies, and businesses that would employ graduates of the new program. The notice must also describe any wage analysis the institution may have conducted, including any BLS wage data related to the new program. In the event that the Department has concerns about the notice, the Department will send a letter to the institution indicating that the program must receive approval by the Department. In those cases where the program is denied, the institution will have the opportunity to submit a response to the Department's concerns and provide any additional information that may be useful if the institution requests reconsideration of the denial.

New nondegree program submissions –

We estimate that there will be 914 new nondegree programs offered that train students for gainful employment in a recognized occupation that will submit a notice for approval of the programs to the Department.

# of New programs	# of Submissions	Hrs/Submission	# of Burden Hours
For-profit institutions			
267	267	X 2.5	668
Private not-for-profit institutions			
110	110	X 2.5	275
Public institutions			

537	537	X 2.5	1,343

Sub-total for new nondegree program submissions:

914	914		2,286

New degree program submissions –

We estimate that there will be 1,005 new degree programs offered by for-profit institutions that train students for gainful employment in a recognized occupation that will submit a notice for approval of the programs to the Department.

# of New programs	# of Submissions	Hrs/Submission	# of Burden Hours

For-profit institutions - single program submissions -

335	335	X 1.75	586

For-profit institutions - multiple program submissions -

670	134	X 2.25	302

Sub-total for new degree program submissions:

1,005	469		888

TOTAL FOR NEW NONDEGREE AND DEGREE PROGRAM SUBMISSIONS

1,919	*1,383*		*3,174*

Additional Information submissions to support the application:

Upon initial review of the institution's narrative application, the Department will contact the institutions whose notice was not complete prior to denying a new program and identify concerns and permit the institution to supplement its notification with additional information. We anticipate that ten percent of all submissions identified above will provide additional information.

New Nondegree programs:

It is anticipated that for this information collection there will be 92 new nondegree programs offered that train students for gainful employment in a recognized occupation will provide additional information to the Department.

# of New programs	# of Submissions	Hrs/Submission	# of Burden Hours

For-profit institutions:

27	27	X 3	81

Not-for-profit institutions:

11	11	X 3	33

Public institutions:

54	54	X 3	162

Sub-total:

92	92		276

New Degree programs:

It is anticipated that for this information collection there will be 101 new degree programs offered by for-profit institutions that train students for gainful employment in a recognized occupation that will provide additional information to the Department.

# of New programs	# of Submissions	Hrs/Submission	# of Burden Hours

For-profit institutions – single submissions:

34	34	X 3	102

For-profit institutions – multiple submissions:

67	13	X 3	39

Sub-total:

101	47		141

TOTAL ADDITIONAL INFORMATION FOR NEW NONDEGREE AND DEGREE PROGRAM SUBMISSIONS

193	*139*		*417*

§600.21(a)(10) – Reporting requirements.

It is anticipated that during the first year 10 percent of the foreign medical schools will be required to notify the Department of any locations that offer all or a portion of non-required clinical rotations within 10 days unless the location is accredited by the Liaison Committee on Medical Education or the American Osteopathic Association, or not regularly used.

# of Respondents	# of Responses	Hrs/Response	# of Burden Hours

For-profit institutions

1	1	X .17	0.17

Private institutions

1	1	X .17	0.17

Public institutions

6	6	X .17	1

TOTAL

8	*8*	*1*

GRAND TOTAL FOR REGULATORY CHANGES

2,191	**1,601**	**3,634**

CURRENT REGULATORY TOTALS

3,278	4,485	21,181

GRAND TOTAL FOR CURRENT AND PROPOSED REGULATORY CHANGES

5,469	***6,086***	***24,815***

For additional information, please see the supplementary document "OMB 1845-0012 v7 Table".

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.)

- **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 : 0

Total Annual Costs (O&M) : 0

Total Annualized Costs Requested : 0

Start-Up Cost Burden to the Respondents

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

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.

Estimated Annual Cost to the Federal Government

There are no additional costs to the Federal government as a result of these regulations.

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

Reasons for Changes to Burden Hour Estimated

The burden estimates for §§ 600.20(b)(3) and 600.21(a)(10) are unchanged from the NPRM burden calculations found in 1845-0012 v6 (04290). However, due to changes in the regulatory language for §600.20(d) between the NPRM stage and the Final Rule stage, additional burden was identified and is now being reported in 1845-0012 v7 (04431). There was a concern that the number of program approvals, estimated in the NPRM at 650 over the first 3 years was an underestimate. The Department reviewed the number of new program submissions to Federal Student Aid over the period from October 1, 2009 through September 30, 2010. Based on this data, it was determined that a better estimate was a total of 1,919 new programs annually. Therefore, over a three-year period the estimate would be 5, 757 new programs. It is noted that the procedure in the regulations will result in most of those new programs being offered solely by providing notice to the Department, and that we estimate that the required approval process will only be needed for approximately 10 percent of the new programs.

The additional burden hours calculated below are program changes that include time for reviewing the change in regulations as well as providing the Department with more information about the location and affiliation of clinical sites that may be available to US students attending a foreign graduate medical school and for any affected school to submit documentation of new programs that are subject to gainful employment regulations. A summary is provided below.

# of Respondents	# of Responses	# of Burden Hours
Section 600.20(b)(3) – Reapplication.		

71	71	42
Section 600.20(d)-Application procedures.		
2,112	1,522	3,591
Section 600.21(a)(10) – Reporting requirements.		
8	8	1
TOTAL		
2,191	**1,601**	**3,634**

For additional information, please see the supplementary document "OMB 1845-0012 v7 Table".

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.

Collection of Information with Published Results

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

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.

Approval to Not Display Expiration Date

The Department is not seeking this approval. The OMB control number and expiration date will be announced in the Federal Register upon OMB approval and will also be displayed on the *Electronic Application for Approval to Participate in Federal Student Financial Aid Programs.*

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

Exception to the Certification Statement

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