

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. 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 (ED) plans to offer each State educational agency (SEA) the opportunity to request flexibility on behalf of itself, its local educational agencies (LEAs), and its schools, in order to better focus on improving student learning and increasing the quality of instruction. This voluntary opportunity will provide educators and State and local leaders with flexibility regarding specific requirements of the No Child Left Behind Act of 2001 (NCLB) in exchange for rigorous and comprehensive State-developed accountability plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. This flexibility is intended to build on and support the significant State and local reform efforts already underway in critical areas such as transitioning to college- and career-ready standards and assessments; developing systems of differentiated recognition, accountability, and support; and evaluating and supporting teacher and principal effectiveness.

ED has developed the documents titled *ESEA Flexibility* and *ESEA Flexibility Request* to assist SEAs with submitting their requests, which includes information collection activities covered by the Paperwork Reduction Act (PRA). The information collection activities consist of the information an SEA must develop and submit to ED to request this flexibility, amendments an SEA must submit to its Accountability Workbooks, and the information a successful SEA must annually report to ED (reporting).

Over the past few years, States and districts have initiated groundbreaking reforms and innovations to increase the quality of instruction and improve academic achievement for all students. Forty-four States and the District of Columbia have adopted a common set of State-developed college- and career-ready standards, and 46 States and the District of Columbia are developing high-quality assessments aligned with these standards. Over forty States are developing next-generation accountability and support systems, guided by principles developed by the Council of Chief State School Officers. Many States are also moving forward with reforms in such areas as teacher and principal evaluation and support, turning around low-performing schools, and expanding access to high-quality schools.

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.

Peer reviewers and ED staff will evaluate each SEA's flexibility request to determine whether ED will approve an SEA's request. ED staff will review the reporting information to determine whether an SEA's waivers will continue, including renewal, or be terminated.

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 given to using technology to reduce burden.

Requests for this flexibility may be submitted to ED by e-mail or in hard copy. In an effort to reduce administrative burdens, ED indicates in the 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 for 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 8b of IC Data Part 2), describe any methods used to minimize burden.

All LEAs that receive Title I, Part A funds, including small LEAs, have the opportunity to benefit from their SEA's applying for this flexibility. There is minimal burden on individual LEAs.

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.

Many of the innovations and reforms described above were not anticipated when NCLB was enacted nearly a decade ago. While NCLB helped SEAs and LEAs shine a bright light on the achievement gap and increased accountability for groups of high-need students, it inadvertently encouraged some States to set low academic standards, failed to recognize or reward growth in student learning, and did little to elevate the teaching profession or recognize the most effective teachers. Instead of fostering progress and accelerating academic improvement, many NCLB requirements have unintentionally become barriers to State and local implementation of forward-looking reforms designed to raise academic achievement. Consequently, many States are petitioning ED for relief from the requirements of current law. One of the Secretary's highest priorities is to help ensure that Federal laws and policies can support these reforms and not hinder State and local innovation aimed at increasing the quality of instruction and improving student academic achievement.

For these reasons, ED is offering each SEA the opportunity to request flexibility on behalf of itself, its LEAs, and its schools, in order to better focus on improving student learning and increasing the quality of instruction. ED needs emergency clearance to begin this important process immediately.

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(d)(2).

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.

ED has provided a public comment period through the emergency notice. In addition, as ED will be seeking regular approval of the information collection activities associated with *ESEA Flexibility*, the public will have the opportunity to comment during the 60-day period for the regular approval. 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.

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 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 table below shows the average estimated SEA burden for the information collection activities identified in Q1. ED anticipates that many SEAs will be able to modify plans that their States developed for their RTT applications and that this existing information available to SEAs will help make the burden lower than it otherwise would have been. Under this flexibility, SEAs will need to amend their Accountability Workbooks to reflect the new annual measurable objectives (AMOs) that the SEA sets.

State Educational Agency Estimate

| Activity | Number of SEA Requests | Hours/Activity | Hours | Cost/Hour | Cost |
|--|-------------------------------|-----------------------|--------------|------------------|-------------|
| Develop and submit flexibility request | 52 | 240 | 12,480 | \$30 | \$374,400 |
| Add revised AMOs to Accountability | 52 | 16 | 832 | \$30 | \$24,960 |

| | | | | | |
|-----------|----|----|--------------|---------------|------------------|
| Workbook | | | | | |
| Reporting | 52 | 80 | 4,160 | \$30 | \$124,800 |
| | | | Total | 17.472 | \$30 |
| | | | | | \$524,160 |

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 State requests for this flexibility and reported data on the implementation of these waivers and key principles. We estimate a cost of \$990,000 to review and respond to the flexibility requests and reported information based on past experience with similar activities.

Q15. Explain the reasons for any program changes or adjustments to #16f of the IC Data Part 1 Form.

This is a new request reflecting a program change of 17,472 burden hours and 52 respondents.

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 the Certification of Paperwork Reduction Act.

There are no exceptions to the referenced certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.