

SUPPORTING STATEMENT

FOR PAPERWORK REDUCTION ACT SUBMISSION

ESEA Flexibility Data Collection through ED*Facts*

EDICS Tracking and OMB Number: (XXXX) XXXX-XXXX

Revised XX/XX/XXXX

RIN Number: XXXX-XXXX (if applicable)

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a hard copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information, or you may provide a valid URL link or paste the applicable section. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, make note of the sections or changed sections, if applicable.**

On September 23, 2011, the U.S. Department of Education (ED) invited each State educational agency (SEA) to request flexibility on behalf of itself, its local educational agencies, and schools, in order to better focus on improving student learning and increasing the quality of instruction. This voluntary opportunity provided 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 plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. Since NCLB was enacted over a decade ago, SEAs and school districts have initiated education reforms and innovations to support improvements in instruction and student achievement, including the adoption of a common set of State-developed college- and career-ready standards in 44 States and the District of Columbia; the development of next-generation accountability and support systems in more than 40 States; and the planning and implementation of reforms in teacher and principal evaluation and support in many States. Many of the NCLB requirements have unintentionally become barriers to State and local implementation of some of these reform efforts. The offer for flexibility provides States with the opportunity to focus resources on State reform efforts in improving instruction and student achievement without some of the constraints of NCLB.

Since the opportunity for flexibility was announced, ED has approved 11 SEA requests for flexibility, and is currently reviewing an additional 27 requests. ED expects to receive requests from additional SEAs by September 6, 2012. SEAs are invited to request flexibility pursuant to the authority in section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA), which allows the Secretary of Education to waive, with certain exceptions, any statutory or regulatory requirement of the ESEA for

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an SEA that receives funds under a program authorized by the ESEA and requests a waiver. The waivers are effective through the 2013–2014 school year, after which time an SEA may request an extension of the flexibility.

In order to ensure that SEAs receiving ESEA flexibility are continuing to meet the intent and purpose of Title I of ESEA, including meeting the educational needs of low-achieving students, closing achievement gaps, and holding schools, LEAs, and SEAs accountable for improving the academic achievement of all students, ED will continue to collect all data related to student proficiency rates as well as performance against the annual measurable objectives (AMOs). In addition, in order to provide transparency around SEA implementation of new reforms and accountability measures, as well as to increase our understanding of the impact of selected interventions employed by the SEAs, ED seeks approval from the Office of Management and Budget (OMB) under the *Paperwork Reduction Act* of 1995 (PRA) to collect the data outlined in Attachment B for a period of three years. This collection will be applicable to SEAs with approved flexibility requests.

In order to reduce burden on SEAs and maximize the availability and utility of the data, ED plans to collect these data through *EDFacts*. *EDFacts* is an ED initiative to put performance data at the center of ED's policy, management, and budget decision-making processes for all K-12 educational programs. *EDFacts* provides an electronic submission system for SEAs, and centralizes the availability of the performance data supplied by SEAs to enable better analysis and use in policy development, planning, and management.

The requirement to submit through *EDFacts* is in line with Final Regulations amending 34 C.F.R. Part 76 and published in the *Federal Register* on January 25, 2007, in which the Secretary required that States submit their performance reports, financial reports, and any other required reports, in the manner prescribed by the Secretary, including through electronic submission, if the Secretary has obtained approval from OMB under the PRA.

The data outlined in Attachment B are related to (1) schools identified for interventions, support, and incentives, including which schools are identified as priority, focus and reward schools; (2) how LEAs in the SEAs approved for ESEA flexibility use funds that are currently required to be spent on transportation for public school choice and supplemental education services; (3) the types of interventions employed in priority and focus schools; and (4) the identification of new subgroups of students for purposes of measuring academic achievement and targeting interventions, incentives, and supports.

Under ESEA flexibility, an SEA is no longer required to identify or report on schools or districts according to designated school improvement statuses, and some SEAs have also received a waiver of the requirement to make and report adequate yearly progress (AYP) determinations. However, as mentioned above, SEAs will be required to continue to report actual student proficiency rates by subgroups, as well as student performance against the SEA's AMOs.

ED is requesting a new OMB control number for this new flexibility collection. Once SEAs complete this first submission, this collection will be transferred to the *EDFacts* collection under 1875-0240. These data need to be approved prior to submission of the *EDFacts* collection, 1875-0240, which will be submitted to OMB in the fall.

- 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 primary customers for these education data will be the program managers and policy analysts at ED. These data will be used to evaluate in an integrated way the effectiveness and efficiency of federal education programs, with the intent to improve program management and focus our budget on those federal education programs that provide the best educational outcomes for the nation's students and their families. These data may also be used to respond to potential requests from SEAs for extensions of the waivers granted through ESEA flexibility. SEAs and LEAs need these data to implement their approved flexibility plans and will also be able to use this information in evaluating the academic performance and progress of their students.

- 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.**

SEAs will submit the data electronically through the *EDFacts* System, which is an established submission system that SEAs have been using for several years. The *EDFacts* System allows each SEA to provide the *EDFacts* data in the most automated, electronic format that the technology of that specific SEA can currently support. Provisions were made to receive data in multiple formats to ensure the least possible burden on each of the respondents.

- 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.**

A thorough analysis of the current *EDFacts* collection, which previously consolidated potentially duplicative collection of data from various ED programs, indicates that these data are not currently collected nor can they be derived from any data currently collected.

- 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.**

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This collection will not impact small businesses or other small entities as defined above.

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.

Education in this nation is on an annual cycle where success and failure are measured and reported annually. If ED collected this information less frequently than annually, it would greatly diminish the ability of program managers and analysts to use the information to measure education progress in support of federal legislation.

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.**

This information collection activity does not have special circumstances that would include any of the requirements listed above.

8. As applicable, state that the Department has published the 60 and 30 Federal Register notices as 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

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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.

A 60-day and 30-day comment period will be provided for this collection. The data included in Attachment B are based on the ESEA flexibility requests received from SEAs, in which they outlined their plans for holding schools and LEAs accountable for the academic achievement of all students in a way that would be aligned to their new State accountability systems. Decisions on which data to collect were based specifically on the information the SEAs provided in their ESEA flexibility requests. Each SEA will only be required to report the data that apply to its specific flexibility request.

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

These data are collected from grantee States. No remuneration, outside of grant funds allocated to the States by formula, is made.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the IC Data Form. A confidentiality statement with a legal citation that authorizes the pledge of confidentiality should be provided. Requests for this information are in accordance with the following ED and OMB policies: Privacy Act of 1974, OMB Circular A-108 – Privacy Act Implementation – Guidelines and Responsibilities, OMB Circular A-130 Appendix I – Federal Agency Responsibilities for Maintaining Records About Individuals, OMB M-03-22 – OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information). If the collection is subject to the Privacy Act, the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentiality of the data.

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There has been no assurance of confidentiality provided to the respondents beyond the agreement to protect personally identifiable information in students' education records under the *Federal Educational Rights and Privacy Act* (FERPA). ED is committed to protecting individual student privacy and will apply disclosure avoidance techniques prior to publishing any data, in accordance with FERPA.

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, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden, and an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. All narrative should be included in item 12. 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 the ROCIS IC Burden Analysis Table. (The table should at minimum include Respondent types, IC activity, Respondent and Responses, Hours/Response, and Total Hours)**
- **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.**

SEAs with approved ESEA flexibility plans will supply these data annually. All SEAs, including those of the District of Columbia and Puerto Rico, were invited to submit

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ESEA flexibility requests. The last deadline for submitting an ESEA flexibility request is September 6, 2012. This proposed collection adds 22 new data groups to an existing collection of 160 data groups. However, not all SEAs with ESEA flexibility will be reporting data for all of the new data groups, and some of the SEAs may no longer be required to report some of the existing data groups. As these new data were identified based on SEA requests for ESEA flexibility, most of the data outlined in Attachment B should be readily available from SEAs required to report the data, although SEAs will need to implement new processes to extract the data from their systems to produce the ED*Facts* files for electronic submission. Thus, the estimated burden on SEAs for the first year of reporting would be an average of 40 hours per respondent to develop routines for preparing the necessary files and data groups that would apply to their States, as well as submitting the files. For subsequent years of reporting, ED expects the average to be reduced to 16 hours per respondent. The annualized response time over three years is 24 hours.

	Respondents	Hours/ Response	Total Hours
States with ESEA flexibility	Up to 52	24	1248

The annualized cost is estimated to be \$62,400 (1248 hours multiplied by an average wage of \$50 per hour). There is a wide range of hourly salaries associated with the professionals that will provide the data, making this estimation approximate. Additionally, this estimation presents a high estimate for the total cost, because it assumes that all 52 SEAs will participate in ESEA flexibility, even though it is not likely that all 52 SEAs will request and receive the flexibility.

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.**

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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. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Item 12**

The collection of *EDFacts* data for the foreseeable future will require no additional systems development efforts by SEAs. SEAs are currently seriously involved in the development of State education information systems for their own use and for reports in response to education legislation. The guidance, standards, and best practices developed by *EDFacts* have been noted by the SEAs as helping them reduce the total costs associated with those systems development activities by providing cost effective common education information management solutions to SEAs and LEAs. Some of this work is being done under the Institute of Education Sciences (IES) discretionary grants made available to help SEAs develop longitudinal statewide education data systems.

- 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.**

These new data groups will be folded into the current *EDFacts* collection system. Contractor hours required to program the system initially for collection, storage, and reporting is estimated at 50 hours per new data group (50 x 22 = 1100), at an average cost of \$150 per hour = \$165,000 the first year; and \$50,000 in subsequent years. The estimated annualized cost is \$88,333.

- 15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g., changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new,**

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revision, extension, reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).

This is a new collection request necessitated by the recent approval of 11 requests for ESEA flexibility, as well as the potential approval of additional requests currently under review and some as yet to be submitted. In future years, these data will be included in the 1875-0240 ED*Facts* collection requests.

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.

ED values transparency and intends to make data resulting from ESEA flexibility available to the public; however, at this time there is no definitive plan or schedule for the publication of these data. Prior to publishing any data, ED will apply disclosure avoidance techniques in accordance with FERPA.

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.

There will be no paper ED*Facts* form for the general collection upon which to display the OMB number. The OMB number will be properly displayed on any Web form used by ED*Facts*.

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

ED is requesting no exemptions from the Certification.