OMB Number: 1810-NEW

Revised: 10/12/2016

RIN Number: 1810-AB33

SUPPORTING STATEMENT

FOR PAPERWORK REDUCTION ACT SUBMISSION

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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. Please limit pasted text to no longer than 3 pages. 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.

   As a result of the Every Student Succeeds Act (ESSA), which amends the Elementary and Secondary Education Act of 1965 (ESEA), the Department of Education (Department) has proposed new regulations to implement the Supplement, not Supplant provisions of the ESSA. The proposed regulations at 34 CFR 200.72(b)(1)(i)(A) and 200.72(b)(1)(ii)(C) contain information collection requirements. As these are new regulations that do not affect any existing collection of information, the Department is requesting a new collection of information for these requirements.

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.

   Proposed §200.72(b)(1)(i)(A) would require each LEA to annually publish its methodology for allocating State and local funds in a manner easily accessible to the public. Proposed §200.72(b)(1)(ii)(C) would allow States to--at their discretion--submit an alternate funds-based compliance test for Federal peer review that then could be used by LEAs to demonstrate compliance with the proposed supplement not supplant requirements. The Department will use this information to make determinations regarding compliance with supplement not supplant requirements. This is a new collection.

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.

   States will be encouraged to submit information under this collection in electronic format.

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 Question 2 above.

   States making their methodology for allocating State and local funds public would only have to post the information in one easily accessible location. States submitting information to comply with proposed §200.72(b)(1)(ii)(C) would submit funds-based compliance tests that they have developed individually as alternative means to demonstrate compliance with the Department's supplement not supplant requirements. This information is unique to specific situations in which States might want to use an alternative method, and it is specific to the Department's supplement not supplant requirements. Therefore, this information is not collected in any other way.

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.

   The respondents to this collection are States and LEAs. States are not small businesses or small entities. Some LEAs may be considered small entities, but we expect that these LEAs will have little additional burden for making the methodology public, since they will have already established this methodology as part of normal operations.

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.

   If the States did not make information on their methodologies for allocating State and local funds available to the public, this would reduce transparency and public accountability for compliance with supplement not supplant provisions. If the Department did not collect the information on funds-based compliance tests, States would not have the opportunity to use alternative means to prove compliance with supplement not supplant requirements. Without this collection, the section of the proposed regulations allowing for this alternative could not be implemented. States would only need to submit the information about alternate funds-based compliance tests one time.

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.

There are no special circumstances that apply to this collection.

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 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 published an invitation to comment in the Notice of Proposed Rulemaking for the Supplement Not Supplant regulation on September 6, 2016. The public will be given the opportunity to comment on the supplement not supplant requirements and the associated information collection burden.

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

   No payments will be provided to respondents.

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 ICRAS' Part 2 IC 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 confidentially of the data.

There is no assurance of confidentiality provided to respondents, and we do not request Personally Identifiable 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.

    This collection does not ask questions of a sensitive nature.

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 Question 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. (The table should at minimum include Respondent types, Number of Respondents 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 Question 14.

    We estimate that during the three year period for which we seek information collection approval, 14,000 LEAs would devote five hours to publishing a methodology for allocating State and local funds. Therefore, we estimate for this section a total burden

over three years for all respondents would be 70,000 hours, resulting in an average annual burden of 23,333 hours.

Number of Respondents	*Hours per Respondent*	*Total Annual Burden Hours*	*Total Cost ($35/hr)*
14,000	*5*	*23,333*	*$816,667*

We estimate that 15 States would choose to submit an alternate funds-based compliance test for Federal peer review, and that each State would devote 40 hours to preparing and submitting the alternate funds-based compliance test. Therefore, we estimate a total burden of 600 hours for this proposed regulation. We estimate State staff time at $40 per hour, which comes to a cost of $1,600 per State and a total cost of $24,000 for all burden across all States.

Number of Respondents	*Hours per Respondent*	*Total Burden Hours*	*Total Cost ($40/hr)*
15	*40*	*600*	*$24,000*

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

Total Annualized Capital/Startup Cost:

Total Annual Costs (O&M):

Total Annualized Costs Requested:

This information collection does not require the use of capital, start-up, operation and maintenance, or purchase costs.

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 Questions 12, 13, and 14 in a single table.

    We estimate that the Federal government will spend an average of 40 hours per State per year to review this information. With 15 States, we estimate 600 total hours of review. People at different pay levels are likely to participate in review, so we will use $40 as the average hourly rate, which is approximately the GS-12 level for a Federal employee in Washington, DC. At $40 per hour, the 600 total hours of review comes to an annual cost of $24,000 to the Federal government.

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, 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, so we do not report any burden change.

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.

    The information gathered through this collection will not be formally published.

17. 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 Notice of Proposed Rulemaking for Supplement Not Supplant regulations published in September 2016, and we expect the final regulations will publish before the end of 2016. Section 1118(b) of the ESEA requires that Title I funds supplement, and not

supplant, State funds. According to the ESSA, States must comply with this requirement by December 10, 2017.

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

    The expiration date will be displayed.

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

    We do not propose any exceptions.