

Supporting Statement A

Standards, Assessments, and Accountability System Waiver

OMB Control Number 1076-NEW

Terms of Clearance: None.

General Instructions

A completed Supporting Statement A must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses, or employ statistical methods?” is checked "Yes," then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

December 10, 2015, the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 6301 et seq.) was reauthorized and amended by the Every Student Succeeds Act (ESSA) (Pub. L. 114-95). The ESSA requires all schools, including BIE-funded and operated schools, to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging academic achievement standards and assessments. In order to accomplish these goals, the Secretary would develop or implement accountability system requirements at BIE-funded schools.

The BIE serves as the State Education Agency (SEA) for BIE-funded schools, which means it must ensure that those schools comply with U.S. Department of Education statutory and regulatory requirements. The assessment and accountability requirements under ESSA, and under 25 CFR 30.105 and 25 CFR 30.111, are submitted to the U.S. Department of Education as a part of their *EDFacts* information collection (OMB 1850-0925) and their Consolidated State Performance Report (OMB 1810-0614).

Tribal governing bodies and school boards at Pub. L. 100-297 grant or Pub. L. 93-638 contract

schools will be able to waive the Secretary's standards requirements in part in or whole and will be required to submit a proposal for alternative requirements. This information collection addresses the waiver and alternative requirement process.

- 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. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

BIE-funded schools that wish to waive (25 CFR 30.113) the Secretary's standards requirements and request technical assistance (25 CFR 30.117) must submit a proposal for alternative requirements (25 CFR 30.114) in order to meet the standards, assessments and accountability requirements under ESSA. Alternative requirement plans must include an explanation of how the alternative proposal meets the requirements of section 1111 of ESEA, taking into consideration the unique circumstances and needs of BIE-funded schools and the students served at such schools. Additionally, alternative requirement proposals must clearly identify any retained portions of the Secretary's requirements. The Secretary and the Secretary of Education will jointly approve plans for alternative requirements for standards, assessments, and accountability system or determine that the proposed alternative requirements do not meet the requirements of section 1111 of ESEA.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.**

This collection of information does not involve the use of automated, electronic, mechanical, or other technological collection techniques. Automated submissions are not feasible because the information contained in a waiver and submission of alternative requirements is unique to each school. Schools may use electronic means to prepare their responses. Nothing precludes a school from using any electronic system to submit their waiver and alternative requirements via e-mail.

- 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.**

The information collected under this OMB number is specific to each individual school's circumstances and situation at the time submitted and is not duplicated. The information collection burden cannot be reduced any further without compromising the integrity of the administration of BIE-funded schools.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The BIE consulted with Tribes and tribal organizations through negotiated rulemaking to determine the necessary information collection requirements and to ensure the fair and equitable administration of ESSA. Through this consultation, the information burden has been minimized in keeping with the goals of the Paperwork Reduction Act (PRA).

6. Describe the consequence 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.

The regulations describe a process for submission of notice of a waiver to the Secretary and the Secretary of Education, and submission of a proposal for alternative requirements within the statutorily prescribed 60 days of notice of a waiver. The information collection burden cannot be reduced any further without the integrity of the administration of BIE-operated and tribally-controlled schools being compromised. Using the Bureau's technical assistance, which is encouraged in the regulations, would result in a reduction in burden to schools that would like to waive the Secretary's standards requirements and develop alternative requirements.

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 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.**

There are no special circumstances that require exceptions to 5 CFR 1320.5 (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 in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically, address comments received on cost and hour burden.**

This request for approval is being submitted in connection with a final rule addressing standards, assessments, and accountability. A request for comments was included in the proposed rule published in the *Federal Register* on June 10, 2019 (84 FR 26705). No comments were received in response to the notice soliciting comments on the information collection and no changes were made to the information collection as a result of comments.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, 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 three 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.

On February 11, 2019, the BIE published a notice announcing a fourth public Committee meeting that was held in March 2019 (84 FR 3135). The meetings were open to the public to provide the public with an opportunity to participate in the rulemaking process.

There were a combined 17 primary and alternate members of the Committee, consisting of both Federal and non-Federal members. Members of the Committee consisted of representatives capable of representing the interests of students enrolled at the 174 BIE-funded schools, parents of such students, school administrators, Tribes, the Indian communities served by BIE-funded schools, and the U.S. Government.

The work of the Committee required committee members to develop an understanding of the technical aspects of the topics of standards, assessments, and accountability systems. The Committee divided itself into subcommittees tasked with developing recommendations and reporting back to the Committee as a whole for each of the topics of standards, assessments, accountability systems, and waivers and technical assistance.

As a result of these meetings, and based on prior experience with Tribal attempts to waive educational standards, BIE obtained the burden estimates reflected in this supporting statement.

Additionally, the BIE work to develop templates to assist in the development of alternative requirements.

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

No payments or gifts are provided to respondents.

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

BIE does not provide any assurance of confidentiality. The information that BIE collects is subject to the requirements of the Privacy Act and the Freedom of Information Act.

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. 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 included in the information collected.

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.**
- * Provide estimates of annualized cost to respondents for 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.**

The reporting requirements affect 174 BIE-funded schools. This results in an estimated annual burden of **1,000 hours** or the equivalent annualized cost of **\$55,550**

Information Collection	# Respondents	Responses per Respondent	Burden Hours per Response	Total Annual Hour Burden	Annual Cost Burden
Submit waiver, request technical assistance, and alternative requirements	2	1	500 hours	1,000 hours	\$55,550

*We are estimating salary using Bureau of Labor Statistics, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION— September 2019 (released December 18, 2019), USDL-19-2195, Table 2, Employer costs per hour worked for employee compensation and costs as a percent of total compensation: civilian workers, by occupational and industry group, September 2019 (\$37.03/hour x 1.5 for benefits for individuals or \$55.55/hour). See https://www.bls.gov/news.release/archives/ecec_12182019.pdf.

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * 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 (including filing fees paid for form processing). 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 purchasing or 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 is no non-hour cost burden associated with this information collection.

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.

The total cost to the federal government is \$15,351. The waiver submissions and request, as well as the review of the alternative requirements, will be processed by a GS 12/Step 6 employee (\$79.34 per hour with 1.6 benefits multiplier) and a GS 9/Step 6 employee (\$46.00 per hour with 1.6 multiplier)*.

Information Collection	# Respondents	Responses per Respondent	Burden Hours per Response	Annual Hour Burden	Total Annual Cost Burden
Submit waiver, request technical assistance, alternative requirements	2	1	GS 13/6: 150 hours GS 9/6: 75 hours	GS 13/6: \$11,901 GS 9/6: \$3,450	\$15,351

*These hourly salary figures are based on the *Salary Table 2019*, <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/19Tables/html/RUS.aspx>. A 1.6 multiplier for benefits is included in the hourly rate for a GS/Step BIE employee reviewing the waiver request and the alternative standards.

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

This is a new information collection.

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.

There are no plans to publish the results of this collection of information.

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 are no forms associated with this information collection.

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

There are no exceptions to this certification statement.