

SUPPORTING STATEMENT
Workforce Flexibility (Workflex) Plan Submission and Reporting Requirements
OMB CONTROL #1205-0432

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 copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

Section 190 of the Workforce Innovation and Opportunity Act (WIOA), (P.L. 113-128, July 22, 2014) permits states to apply for a 5-year Workflex waiver authority to implement reforms to their workforce investment systems in exchange for program improvements. Under Workflex, governors are granted the authority to approve requests submitted by their local areas to waive certain statutory and regulatory provisions of WIOA Title I programs. States may also request waivers from the Secretary of certain requirements of the Wagner-Peyser Act (Sections 8-10) and the Older Americans Act of 1965. The Act provides that the Secretary may only grant Workflex waiver authority in consideration of a Workflex plan submitted by a State.

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 information forms the basis for approving applications from States for Workflex waiver authority. Applications consist of Workflex plans developed and submitted by States in accordance with the requirements specified in Section 190 of the Act, 20 CFR 679.630 et seq. and guidance issued by the Department. The Department maintains a quarterly update process by which States report on key data elements, which are implemented upon the approval of the Workflex request.

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.*

In compliance with the Government Paperwork Elimination Act, the Department routinely accepts electronic submissions from its grantees. Electronic submissions must be in Word or PDF format (Macintosh versions cannot be accepted), and must follow the Department's current policy on the submission of signature pages.

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.*

States may submit Workflex plans as part of their WIOA 4-year State Plan, thereby avoiding duplication, especially in the public review and comment process required for both plans. States may also submit separate Workflex plans, in which case they are encouraged to cross-reference, rather than duplicate, pertinent sections of their WIOA State Plans. Once approved, the Workflex plan is incorporated into the WIOA 4-year State Plan through a grant modification.

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

Information collection applies to State Governments only.

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.*

Since submission of a Workflex plan is the only means by which a State may be granted Workflex waiver authority, not collecting this information would prevent the State from exercising its option under the Act to apply for such authority.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner that requires further explanation pursuant to regulations 5 CFR 1320.5:*
 - * 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 the collection of information to be conducted in a manner inconsistent with 5 CFR 1320.5.

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 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 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.

In accordance with the Paperwork Reduction Act of 1995, the public was allowed 60 days to comment through the Federal Register Notice posted on January 8, 2021 (86 FR 1527). One public comments was received; however, it was non-material to the collection.

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

There are no payments made to respondents.

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

There are no assurances of confidentiality.

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 is no information of a sensitive nature being requested.

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. Instead, this cost should be included under “Annual Cost to Federal Government.”*

All States, including the Insular Areas, may apply for Workflex waiver authority; therefore, the number of respondents indicated below is an estimate. Based on the historical level of interest, the number of respondents is expected to be quite low. Burden estimates are:

5 respondents x 1 frequency x 15 hours per respondent application = 75 total annual burden hours.

In addition to the Workflex plan, a State granted Workflex authority is required to submit quarterly reports consisting of seven items which summarize waiver activities in the State. We estimate that, at the high end, five states will request Workflex authority per year. Therefore burden estimates for quarterly reporting are:

5 respondents x 4 quarters x 8 hours per respondent per report = 160 total annual burden hours

Costs for respondents include drafting the application to meet the submission requirements and the goals and priorities of the Governor and various State and local partners/stakeholders. Individual staff costs to prepare an *application* are estimated at \$50.61 per hour times 15 hours of preparation or \$759.15 per respondent. Staff costs to prepare *quarterly reports* are estimated at \$50.61 per hour times 8 hours of preparation multiplied by 4 reports or \$1,619.52 per respondent annually. The total monetized value of the respondents’ time is \$11,230 (\$2,378.67 per respondent times 5 respondents).

The hourly rate is computed by dividing the FY 2017 national average personal services/personal benefits (PS/PB) annual salary for state staff as provided for through the distribution of state UI administrative grants (https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-19_Attachment-1_Acc.pdf) by the number of hours worked in a year (1,711). \$86,609 annual rate/1,711 hours = \$50.61.

| Activity | Number of Respondents | Frequency | Total Annual Responses | Time Per Response (Hours) | Total Annual Burden (Hours) | Hourly Rate* | Monetized Value of Respondent Time |
|----------------------------|-----------------------|-----------|------------------------|---------------------------|-----------------------------|--------------|------------------------------------|
| Waiver Application | 5 | 1 | 5 | 15 | 75 | \$50.61 | \$3,795.75 |
| Quarterly Reporting | 5 | 4 | 20 | 8 | 160 | \$50.61 | \$8,097.60 |
| Unduplicated Totals | -- | 5 | 25 | -- | 235 | -- | \$11,893.35 |

* [Explain source and provide static link to data.]

13. Provide an estimate for 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 already reflected on the burden worksheet).

* 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 purchasing or contracting out information collections 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 other costs involved.

14. Provide estimates of annualized costs 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 may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

Federal staff will be reviewing and approving applications and processing quarterly reports. Costs to review an *application* are estimated at \$40.44 per hour times 10 hours or \$404 per application. Staff cost to review *quarterly reports* are estimated at \$40.44 per hours times 8 hours multiplied by 4 or \$1,294 per respondent annually. The total annualized staff costs are \$8,490 (\$1,698 per respondent times 5 respondents.)

ETA derives the wage figure from the current GS schedule for a GS-12, Step 4 employee (\$40.44) (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/RUS_h.pdf)

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

There are no changes to the burden. The increase of 25 hours in the agency's estimate of time burden is due to the fact that the hour burden was underreported when the ICR was last submitted in 2018.

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.

All approved Workflex plans will be published on the DOL website.

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

There are no plans to seek non-display of the OMB approval.

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

No exceptions are requested.

B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.