

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. Attached is a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Section 9521(a) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) provides that a local educational agency (LEA) may receive funds under Title I, Part A and other ESEA “covered programs” for any fiscal year only if the State educational agency (SEA) finds that either the combined fiscal effort per student or the aggregate expenditures of the LEA and the State with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year. This provision is the maintenance of effort (MOE) requirements for LEAs under the ESEA.

If an LEA fails to meet the MOE requirement, under section 9521(b) of the ESEA, the SEA must reduce the amount of funds allocated under the programs covered by the MOE requirement in any fiscal year in the exact proportion by which the LEA fails to maintain effort by falling below 90 percent of either the combined fiscal effort per student or aggregate expenditures. In reducing an LEA’s allocation because it failed to meet the MOE requirement, the SEA uses the measure most favorable to the LEA.

Section 9521(c) gives the U.S. Department of Education (ED) the authority to waive the ESEA’s MOE requirement for an LEA if it would be equitable to grant the waiver due to an exceptional or uncontrollable circumstance such as a natural disaster or a precipitous decline in the LEA’s financial resources. Once an MOE waiver is granted, the reduction required by section 9521(b) does not occur for that year.

To review MOE waiver requests, ED relies primarily on expenditure, revenue, and other data relevant to an LEA’s request provided by the SEA. To assist SEAs with submitting this information, ED developed an MOE waiver form as part of the 2009 Title I, Part A Waiver Guidance, which covered a range of waivers that ED invited at that time.

The purpose of this collection is to renew approval for the MOE waiver form. ED believes that the proposed form, which is slightly modified from the currently approved version, will enable an SEA to provide the information needed in an efficient manner. The SEA may need to obtain information from its LEAs, and this collection includes burden at the SEA and LEA levels.

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.

ED will use the information provided in the form to decide whether to grant an MOE waiver.

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 of using information technology to reduce burden.

ED plans to continue to make this form available on its website.

Q4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use of 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 5 of OMB Form 83-1), describe any methods used to minimize burden.

The form is designed for an SEA to provide information for all of its LEAs, including small 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.

If the collection is not conducted, it would be more difficult for ED to obtain the information it needs to review an LEA's MOE waiver requests for programs covered under this requirement. Consequently, it would be more likely that an SEA would be required to reduce the LEA's allocations for those programs, even if the LEA's circumstances warranted the granting of a waiver.

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 1320.5.

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.

The Department is providing the public with an opportunity to comment during the 60-day and 30-day comment periods for this collection. ED received one public comment, attached.

Q9. Explain any decision to provide any payment or gift to respondents, other than renumeration 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 13 of OMB Form 83-I.
- 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.

ED’s estimate of the burden hours per SEA and LEA remains the same as what was approved for the current collection. At the SEA level, ED estimates that the 52 SEAs would need an average of 80 hours to complete the form, for a total of 4,160 hours and a total cost of \$124,800.

With respect to LEAs, in the current collection approved in 2010, ED estimated that up to 300 LEAs a year may request MOE waivers. The actual number has been smaller. As a result, we are basing our estimate on 150 LEAs a year, for a total of 1,200 hours and a total cost of \$30,000.

<u>Entity</u>	<u>Number</u>	<u>Hours/Response</u>	<u>Total Hours</u>	<u>Cost/Hour</u>	<u>Total Cost</u>
SEA	52	80	4,160	\$30	\$124,800
LEA	150	8	1,200	\$25	\$30,000
Totals:	202		5,360		\$154,800

In total, ED estimates 5,360 hours a year and a cost of \$154,800.

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 the MOE waiver requests. We estimate a yearly cost of \$6,190 to review and respond to the requests. This estimate is based on responding to 52 SEAs to indicate the decisions on 150 LEA requests, and it assumes two hours for each response by an individual at \$45.99 per hour and one-half hour for each response by an individual at \$54.10 per hour.

Q15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

The change to Item 14 from the previously approved collection is primarily due to the reduced scope of the collection to only MOE waivers. The previous collection also included other waivers that ED invited in 2009 that pertained specifically to Title I, Part A of the ESEA and the American Recovery and Reinvestment Act. We are only renewing the collection for the MOE waiver request form. Therefore, the burden associated with this collection decreases by 24,280 hours.

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 Item 20, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions to the referenced certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.