

Services, Central Intelligence Agency, Washington, DC 20505, or fax to (703) 613-3020.

**FOR FURTHER INFORMATION CONTACT:** Joseph W. Lambert, (703) 613-1379.

**SUPPLEMENTARY INFORMATION:** Consistent with the Privacy Act (PA), the CIA has undertaken and completed a review of its public PA regulations. As a result of this review, the Agency proposes to revise its PA regulations to update the title of the head of the CIA and to streamline the appeals structure.

#### List of Subjects in 32 CFR Part 1901

Classified information, Privacy Act.

As stated in the preamble, the CIA proposes to amend 32 CFR part 1901 as follows:

#### PART 1901—PUBLIC RIGHTS UNDER THE PRIVACY ACT OF 1974

1. The authority citation for part 1901 is revised to read as follows:

**Authority:** National Security Act of 1947, as amended; Central Intelligence Agency Act of 1949, as amended; Privacy Act, as amended.

2. Amend § 1901.02, by adding paragraphs (o) and (p) to read as follows:

#### § 1901.02 Definitions.

\* \* \* \* \*

(o) *Director of Central Intelligence Agency* means the head of the Central Intelligence Agency.

(p) *Agency Release Panel (ARP)* refers to the Agency's forum for reviewing information review and release policy, the adequacy of resources available to all Agency declassification and release programs, and hearing appeals in accordance with this section.

#### § 1901.41 [Amended]

3. Revise § 1901.41 to read as follows:

#### § 1901.41 Designation of authority to hear appeals.

(a) *Agency Release Panel (ARP)*. Appeals of initial adverse decisions under the Privacy Act shall be reviewed by the ARP which shall issue the final Agency decision.

(b) *ARP Membership*. The ARP is chaired by the Chief, Information Review and Release Group, Information Management Services, and composed of the Information Review Officers from the various Directorates and the Director, Central Intelligence Agency (D/CIA) areas, as well as the representatives of the various release programs and offices. The Information and Privacy Coordinator also serves as Executive Secretary of the ARP.

4. In § 1901.42, revise paragraph (d) to read as follows:

#### § 1901.42 Right of appeal and appeal procedures.

\* \* \* \* \*

(d) *Receipt, recording, and tasking*. The Agency shall promptly record each administrative appeal, acknowledge receipt to the requester in writing, and thereafter affect the necessary taskings to the Director(s) in charge of the directorate(s) which originated or has an interest in the record(s) subject to the appeal. As used herein, the term Director in charge of a directorate includes an equivalent senior official within the D/CIA area, as well as a designee known as the Information Review Officer for a directorate or area.

#### § 1901.43 [Removed and Reserved]

5. Remove and reserve § 1901.43  
6. In § 1901.44, revise paragraph (b) and remove and reserve paragraph (c) to read as follows:

#### § 1901.44 Action by appeals authority.

\* \* \* \* \*

(b) *Decision*. The Agency Review Panel (ARP) shall meet on a regular schedule and may take action when a simple majority of the total membership is present. In all cases of a divided vote, before the decision of the ARP becomes final, any member of the ARP may by written memorandum to the Executive Secretary of the ARP, refer such matters to the Director, Information Management Services (D/IMS) for decision. In the event of a disagreement with any decision by D/IMS, Directorate heads may appeal to the Associate Deputy Director, CIA (ADD) for resolution. The final Agency decision shall reflect the vote of the ARP, unless changed by the D/IMS or the ADD.

#### § 1901.45 [Amended]

7. In § 1901.45, revise paragraph (a) to read as follows:

#### § 1901.45 Notification of decision and right of judicial review.

(a) *In general*. The Executive Secretary of the Agency Review Panel shall promptly prepare and communicate the final Agency decision to the requester. With respect to any decision to deny a request, that correspondence shall state the reasons for the decision and include a notice of a right to seek judicial review.

\* \* \* \* \*

Dated: August 10, 2011.

**Joseph W. Lambert,**  
*Director, Information Management Services.*  
[FR Doc. 2011-21575 Filed 9-22-11; 8:45 am]

**BILLING CODE 6310-02-P**

## DEPARTMENT OF EDUCATION

### 34 CFR Subtitle B, Chapter II

[Docket ID ED-2011-OS-0005]

RIN 1894-AA02

#### State Fiscal Stabilization Fund Program and Discretionary and Other Formula Grant Programs

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed revisions to certain data collection and reporting requirements, and proposed priority.

**SUMMARY:** The Secretary of Education (Secretary) established requirements for the State Fiscal Stabilization Fund (SFSF) program in a notice of final requirements, definitions, and approval criteria published in the **Federal Register** on November 12, 2009 (November 2009 Notice). In this notice, the Secretary proposes to revise some of those requirements. In a separate notice of interim final requirement, the Secretary is extending to January 31, 2012, the deadline by which a State must collect and publicly report data and information under the SFSF program.

In addition, the Secretary proposes in this notice to establish a priority that the U.S. Department of Education (Department) may use, as appropriate, in any future discretionary grant competitions. The Department would give a priority to States that have developed and implemented the statewide longitudinal data system (SLDS) required under SFSF Indicator (b)(1) on or before the applicable deadline.

Through this notice, we also remind grantees that under its current authority, the Department may identify grantees as high risk and impose sanctions on them for failing to meet programmatic requirements. In addition, the Department is proposing that it may take enforcement action against a State educational agency (SEA) under certain circumstances where a State fails to meet the requirements of Indicators (b)(1), (c)(11), or (c)(12).

**DATES:** We must receive your comments on or before October 24, 2011.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. To ensure that we do not receive duplicate copies, please submit your comments only one time. In addition, please include the Docket ID and the term "State Fiscal Stabilization Fund—Proposed Revisions" at the top of your comments.

• *Federal eRulemaking Portal*: Go to <http://www.regulations.gov> to submit your comments electronically. Information on using [Regulations.gov](http://www.regulations.gov), including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “How To Use This Site.”

• *Postal Mail, Commercial Delivery, or Hand Delivery*: If you mail or deliver your comments about these proposed revisions to certain data collection and reporting requirements and proposed priority, address them to Office of the Deputy Secretary (Attention: State Fiscal Stabilization Fund Proposed Revisions Comments), U.S. Department of Education, 400 Maryland Avenue, SW., room 7E214, Washington, DC 20202–6200.

• *Privacy Note*: The Department’s policy for comments received from members of the public (including comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at <http://www.regulations.gov>. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

**FOR FURTHER INFORMATION CONTACT:** James Butler, State Fiscal Stabilization Fund Program, U.S. Department of Education, 400 Maryland Ave., SW., room 7E214, Washington, DC 20202–0008. Telephone: (202) 260–9737 or by e-mail: [SFSFcomments@ed.gov](mailto:SFSFcomments@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

*Invitation to Comment*: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final revisions to certain data collection and reporting requirements, and final priority, we urge you to identify clearly the specific proposal that each comment addresses.

We invite you also to assist us in complying with the specific requirements of Executive Order 12866 and Executive Order 13563 and their overall requirements of reducing regulatory burden that might result from these proposed revisions to certain data collection and reporting requirements and proposed priority. Please suggest further ways we could reduce potential costs or increase potential benefits

while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice by accessing [Regulations.gov](http://www.regulations.gov). You may also inspect the public comments in person in room 7E214, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

*Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record*: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

*Purpose of Program*: The SFSF program provided approximately \$48.6 billion in formula grants to States to help stabilize State and local budgets in order to minimize and avoid reductions in education and other essential services, in exchange for a State’s commitment to advance education reform in four key areas: (1) Achieving equity in the distribution of teachers; (2) improving the collection and use of data; (3) standards and assessments; and (4) supporting struggling schools.

**Program Authority**: American Recovery and Reinvestment Act of 2009, Division A, Title XIV—State Fiscal Stabilization Fund, Pub. L. 111–5; 20 U.S.C. 1221e–3 and 3474.

**Proposed Revisions to Reporting Requirements**

*Background*

Section 14005(d) of Division A of the American Recovery and Reinvestment Act of 2009 (ARRA) requires a State receiving funds under the SFSF program to provide assurances in four key areas of education reform: (1) Achieving equity in teacher distribution; (2) improving collection and use of data; (3) standards and assessments; and (4) supporting struggling schools. In the November 2009 Notice (74 FR 58436), we established specific data and information requirements (assurance indicators and descriptors) that a State must meet with respect to the statutory assurances. We also established specific requirements for the plans that a State had to submit as part of its application for the second phase of funding under the SFSF program, describing the steps it would take to collect and publicly report the required data and other

information. As we explained in the November 2009 Notice, these two sets of requirements provide transparency on the extent to which a State is implementing the actions for which it provided the assurances. Increased access to and focus on these data better enable States and other stakeholders to identify strengths and weaknesses in education systems and to determine where concentrated reform effort is warranted.

We are taking this action in response to the January 18, 2011 Executive Order 13563 entitled “Improving Regulation and Regulatory Review” and the February 28, 2011 Memorandum from the President to executive departments and agencies entitled “Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments.” These documents direct each Federal executive department and agency to review periodically its existing significant regulations in order to determine whether any of those regulations should be modified, streamlined, expanded, or repealed so as to make the department’s or agency’s regulatory program more effective or less burdensome in achieving regulatory objectives. These proposed modifications would address concerns raised by some States regarding their capacity to meet the requirements in the November 2009 Notice.

As a result of a regulatory review of the SFSF program requirements, the Secretary is publishing elsewhere in this issue of the **Federal Register** an IFR that extends to January 31, 2012 the deadline for States to collect and publicly report data and information under the program. In addition, in this notice, the Secretary proposes to: (1) Eliminate the requirement for States to report data annually for Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6); (2) extend to December 31, 2012, upon submission of an approvable request by a State, the deadline for meeting the requirements under Indicators (b)(1) and (c)(12); (3) extend to December 31, 2012, upon submission of an approvable request by a State, the deadline for publicly reporting or developing the capacity to collect and publicly report student enrollment data under Indicator (c)(11) for high school graduates who enroll in an in-State public institution of higher education (IHE); and (4) apply an alternative standard, upon submission of an approvable request by a State, by which a State may meet the Indicator (c)(11) data collection and reporting requirements for high school graduates who enroll in private or out-of-State public IHEs. The Secretary proposes to establish December 31, 2012 as the

deadline by which a State must meet the requirements of the Indicator (c)(11) alternative standard.

In addition to these revisions, the Secretary proposes to establish a priority that the Department may use in future discretionary grant competitions, for States that have met the requirements of Indicator (b)(1) on or before the applicable deadline. The Secretary also is reminding States of possible sanctions that may be imposed on them for failing to meet SFSF collection and reporting requirements. Further, the Secretary is proposing to have the authority to extend those sanctions to SEAs in States that have received an extension of the deadline to December 31, 2012 for Indicators (b)(1), (c)(11), or (c)(12) but fail to meet the revised deadline or that have received permission to use the alternative standard for Indicator (c)(11) but fail to meet the requirements of that standard by the deadline.

We note that other than the revised January 31, 2012 deadline for collecting and publicly reporting data that has been established in the IFR, or unless specifically referenced in this notice, we are not proposing to modify any other SFSF requirements and those requirements remain in effect as originally established.

In addition, we note that where the SFSF indicators make use of information in "Existing Collections" (see column 4 of the table in Section I of *State Fiscal Stabilization Fund: Summary of Final Requirements* at <http://www2.ed.gov/programs/statestabilization/summary-requirements.doc>), the modification of an SFSF indicator does not affect other Federal requirements for those collections that are established under separate legal authority. Some of the data that States submit through the Department's ED*Facts* system to meet requirements established under other authorities (e.g., Title I accountability data) are also reported publicly by States to meet the requirements of certain SFSF indicators. Those requirements established by other authorities are not affected by the modification of any SFSF indicator.

### Proposed Revisions

#### *Proposed Elimination of Annual Reporting Requirements for Indicators (c)(1) Through (c)(9) and (d)(1) Through (d)(6)*

Currently, each State is required to collect and publicly report, at least annually, the data and other information required by Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6).

Indicators (c)(1) through (c)(9) (standards and assessments indicators) require each State to collect and publicly report data and other information annually on, among other things, whether students are provided high-quality State assessments; whether students with disabilities and limited English proficient students are included in State assessment systems; and whether the State makes information available regarding student academic performance in the State compared to the academic performance of students in other States.

Indicators (d)(1) through (d)(6) (supporting struggling schools indicators) require a State to collect and publicly report data and other information annually on, among other things, the progress of certain groups of schools in the State on State assessments in reading/language arts and mathematics and on the extent to which reforms to improve student academic achievement are implemented in the persistently lowest-achieving schools in the State.

A majority of States have collected and publicly reported the data and information required by Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6). The data and information highlight the progress each State is making to address potential inequities in standards and assessments and to inform the public on the extent to which reforms to improve student academic achievement are implemented in the persistently lowest-achieving schools in the State. However, much of these data are now also collected through other Department information collections. For example, data on the participation of students with disabilities, by assessment type, is provided by States as part of the Elementary and Secondary Education Act (ESEA) Consolidated State Performance Report (CSPR) and the annual assessment data reporting under the Individuals with Disabilities Education Act. The CSPRs are available at <http://www2.ed.gov/admins/lead/account/consolidated/sy08-09part1/index.html>. Data are also available to the public about the participation of students with disabilities by assessment type at <https://www.ideadata.org/PartBData.asp>. In addition, data about the performance of students on statewide assessments, by subgroup (including students with disabilities and limited English proficient students), are publicly available at <http://www.eddataexpress.ed.gov/>.

Under the IFR, States have until January 31, 2012, to collect and publicly report the data and information required under the SFSF indicators and

descriptors, including Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6). However, given the availability of these data through other sources, we do not believe it continues to be necessary to have States separately collect and report data for Indicators (c)(1) through (c)(9) and Indicators (d)(1) through (d)(6) more than one time under the SFSF program. Any State that has already collected and publicly reported these data would not be required to take any further actions relative to these indicators for the purposes of the SFSF program. Any State that has not already provided data under these Indicators must do so by the January 31, 2012 deadline.

#### *Proposed Extension of Deadline for Indicators (b)(1) and (c)(12)*

Indicator (b)(1) requires a State to identify which of the 12 elements in section 6401(e)(2)(D) of the America COMPETES Act are included in its SLDS. Any State that did not have an SLDS that included all 12 elements was required to provide the Department, as part of its SFSF Phase 2 application, a plan for fully developing and implementing such a system by September 30, 2011.

Indicator (c)(12) requires each State to collect and publicly report course completion data for high school graduates who enroll in a public IHE in the State.<sup>1</sup> If, at the time of submission of its SFSF Phase 2 application, a State lacked the capacity to collect and publicly report the specified course completion data it had to provide the Department with a plan for how it would collect and report those data or develop the capacity to do so by September 30, 2011.

As the Department noted in its November 2009 Notice, timely and reliable information from across sectors will facilitate program evaluation and help determine whether a program is improving outcomes for students. Thus, it is imperative that States complete the development and implementation of an SLDS that includes the 12 elements required under the America COMPETES Act. Further, a State must have an SLDS to be able to report the course

<sup>1</sup> Specifically, Indicator (c)(12) requires each State to provide for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i) who enroll in a public IHE (as defined in section 101(a) of the Higher Education Act) in the State within 16 months of receiving a regular high school diploma, the number and percentage (including numerator and denominator) who complete at least one year's worth of college credit (applicable to a degree) within two years of enrollment in the IHE.

completion data required under Indicator (c)(12) that provides information on how effectively schools in the State are preparing their students for postsecondary education.

The Department recognizes the challenges and competing priorities that many States have faced in trying to meet the requirements of Indicators (b)(1) and (c)(12) by the September 30, 2011 deadline. During program monitoring, States have expressed concerns about their ability to fully develop and implement an SLDS by the established deadline. In addition, many States indicated in their March 2011 Amended Application for Funding Under the State Fiscal Stabilization Fund Program that they still had not fully incorporated the following elements into their SLDS: (1) Student-level transcript information, including data on courses completed and grades earned (Element 9); (2) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework (Element 11); and (3) other information determined necessary to address alignment and adequate preparation for success in postsecondary education (Element 12). Further, most States reported in their amended SFSF application that they do not yet have the capacity to collect and publicly report the course completion data required under Indicator (c)(12).

As a result, in the IFR, the Department is extending to January 31, 2012 the deadline by which States must meet the requirements of the SFSF indicators and descriptors, including Indicators (b)(1) and (c)(12). Further, the Department proposes in this notice to extend to December 31, 2012, upon submission of an approvable request by a State, the deadline for the development and implementation of an SLDS that includes the 12 elements included in the America COMPETES Act. In addition, the Department proposes to extend to December 31, 2012, upon submission of an approvable request by a State, the deadline by which a State must have the capacity to collect and publicly report the required course completion data under Indicator (c)(12).

The Department proposes that, to be approvable, an extension request must provide the specific information described under the heading *Proposed Requirements for Requests for Extensions to December 31, 2012, of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard*.

*Proposed Revisions to Requirements Under Indicator (c)(11)*

Under the requirements for Indicator (c)(11) established in the November 2009 Notice, each State must (1) Collect and publicly report, by September 30, 2011, data on the number and percentage of high school graduates who enroll in IHEs—public or private, in-State or out-of-State; or (2) submit to the Department a plan describing how the State would develop, by September 30, 2011, the capacity to do so. Further, under those requirements, each State must submit to the Department, by September 30, 2011, evidence demonstrating that it has developed the capacity to collect and publicly report the data.

A number of States have raised concerns about the challenges in collecting and publicly reporting student enrollment data. In their March 2011 SFSF amended applications, 43 States indicated that they did not yet have the capacity to collect and publicly report those data. Therefore, in the IFR, the Department is extending until January 31, 2012, the deadline for States to comply with the SFSF indicators and descriptors, including Indicator (c)(11). Further, in this notice the Department proposes to extend to December 31, 2012, upon submission of an approvable request by a State, the deadline by which a State must collect and publicly report or have the capacity to collect and publicly report the student enrollment data required under Indicator (c)(11) for high school graduates who attend an in-State public IHE. The Department would grant an extension to December 31, 2012 only to a State that submits a request that contains the specific information proposed under the heading *Proposed Requirements for Requests for Extensions to December 31, 2012, of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard*.

The Department acknowledges that obtaining student enrollment data from private and out-of-State public IHEs can be particularly challenging. Therefore, the Department also proposes to establish an alternative standard by which a State may meet the Indicator (c)(11) data collection and reporting requirements with respect to high school graduates who enroll in private or out-of-State public IHEs. While such data are essential in determining how well an LEA or secondary school is preparing its students for postsecondary education, some States may need additional time to develop fully the capacity to collect and report these data.

Under the alternative standard, a State would have to increase, by December 31, 2012, its current capacity to collect and publicly report the required student enrollment data for high school graduates who attend a private or an out-of-State public IHE. A State would not be required to be fully capable of collecting and reporting these data by December 31, 2012. For the purposes of the alternative standard, a State would be considered to be making acceptable progress in increasing its capacity to collect and publicly report student enrollment data for high school graduates who enroll in private or out-of-State public IHEs through such activities as: (1) Entering into data reciprocity agreements with private in-State IHEs that receive any State funds, including those for student financial aid, research, or any other activities; (2) entering into data reciprocity agreements with private in-State IHEs over which the State exercises significant oversight, such as serving as an accrediting body; (3) entering into data reciprocity agreements with geographically contiguous States or States with which it has tuition reciprocity agreements; or (4) conducting a data analysis to determine the out-of-State IHEs where large numbers of the State's high school graduates enroll.

The Department proposes that States that use the alternative standard for Indicator (c)(11) be required to publicly report, by December 31, 2012, the following—

- (1) For each in-State private IHE—
  - (a) Whether the State provides funding to the IHE;
  - (b) Whether the State has a data-sharing agreement in place with the IHE and, if so, whether the data-sharing agreement enables the State to track its recent high school graduates; and
- (2) For each out-of-State private or out-of-State public IHE with which the State has a data-sharing agreement—
  - (a) Whether the State provides funding to the IHE; and
  - (b) Whether the data-sharing agreement enables the State to track its recent high school graduates.

The Department proposes to permit a State that provides the specific information described under the heading *Proposed Requirements for Requests for Extensions to December 31, 2012, of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard* to use the alternative standard.

*Proposed Requirements for Requests for Extensions to December 31, 2012, of Deadlines for Indicators (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard*

Because of an SEA's significant role in carrying out education reform activities in a State, including developing and implementing an SLDS, the Department proposes that any request for an extension to December 31, 2012, of the deadline for Indicator (b)(1), (c)(11), or (c)(12), as well as any request to use the alternative standard for Indicator (c)(11), must be submitted jointly by the Governor and the Chief State School Officer. Further, the Secretary proposes that an extension request or a request to use the alternative standard must be submitted by the deadline that the Department will establish in the notice of final revisions to certain data collection and reporting requirements, and final priority. The additional requirements for these requests are as follows:

**A. Indicator (b)(1) Extension Requests**

The Secretary proposes that a State must provide the following information when requesting an extension of the deadline for developing and implementing an SLDS under Indicator (b)(1) that includes the 12 elements required by the America COMPETES Act:

(1) An identification of the elements in the America COMPETES Act that the State has implemented to date as part of its SLDS; and

(2) An assurance signed by the Governor and the Chief State School Officer that the State will—

(i) Incorporate the remaining elements into its SLDS by the December 31, 2012, deadline; and

(ii) Provide, within 60 days of submission of the request, a revised plan for incorporating those elements by the deadline.

**B. Indicator (c)(11) Extension Requests**

The Secretary proposes that a State must provide the following information when requesting an extension of the deadline for collecting and publicly reporting under Indicator (c)(11) student enrollment data for high school graduates who enroll in an in-State public IHE:

(1) A description of the State's current capacity to collect and publicly report such student enrollment data; and

(2) An assurance signed by the Governor and the Chief State School Officer that the State will—

(i)(A) Collect and publicly report by December 31, 2012, student enrollment

data for high school graduates who attend an in-State public IHE; or

(B) Develop the capacity to collect and publicly report those data by December 31, 2012; and

(ii) Provide, within 60 days of submission of the request, a revised plan for how the State will—

(A) Collect and publicly report the data by December 31, 2012; or

(B) Develop the capacity to collect and publicly report those data by December 31, 2012.

**C. Indicator (c)(12) Extension Requests**

The Secretary proposes that a State must provide the following information when requesting an extension of the deadline for collecting and publicly reporting under Indicator (c)(12) course completion data for high school graduates who enroll in an in-State public IHE:

(1) A description of the State's current capacity to collect and publicly report such course completion data; and

(2) An assurance signed by the Governor and the Chief State School Officer that the State will—

(i)(A) Collect and publicly report, by December 31, 2012, course completion data for high school graduates who attend an in-State public IHE; or

(B) Develop the capacity to collect and publicly report, by December 31, 2012, such data; and

(ii) Provide, within 60 days of submission of the request, a revised plan for how the State will—

(A) Collect and publicly report the data by December 31, 2012; or

(B) Develop the capacity to collect and publicly report such data by December 31, 2012.

**D. Indicator (c)(11) Alternative Standard Requests**

The Secretary proposes that a State must provide the following information when requesting permission to use the alternative standard to satisfy the Indicator (c)(11) requirements to collect and publicly report student enrollment data for high school graduates who enroll in private or out-of-State public IHEs:

(1) A description of the State's current capacity to collect and publicly report such student enrollment data; and

(2) An assurance signed by the Governor and the Chief State School Officer that the State will—

(i)(A) Collect and publicly report, by December 31, 2012, student enrollment data for high school graduates who enroll in private or out-of-State public IHEs; or

(B) Increase its current capacity to collect and publicly report such data by

December 31, 2012, and, by that date, publicly report, the following—

(1) For each in-State private IHE—  
(a) Whether the State provides funding to the IHE;

(b) Whether the State has a data-sharing agreement in place with the IHE and, if so, whether the data-sharing agreement enables the State to track its recent high school graduates; and

(2) For each out-of-State private or out-of-State public IHE with which the State has a data-sharing agreement, whether individually or through a State agency or consortium—

(a) Whether the State provides funding to the IHE; and

(b) Whether the data-sharing agreement enables the State to track its recent high school graduates;

(ii) Provide, within 60 days of submission of the request, a revised plan for how the State will—

(A) Collect and publicly report the data by December 31, 2012; or

(B) Increase its current capacity to collect and report those data by December 31, 2012.

*Proposed Requirements for Revised Plans for Indicator (b)(1), (c)(11), or (c)(12)*

The Department proposes that the revised plans for Indicator (b)(1), (c)(11), or (c)(12) must include the following information:

(a) A detailed description of the steps that the State will take to ensure that the requirements of the indicator will be met by December 31, 2012, including a reasonable timeline for those actions;

(b) Identification of the agency or agencies in the State responsible for the development and implementation of the revised plan; and

(c) An overall budget, including the funding sources, that is sufficient to support the development and implementation of the revised plan.

**Proposed Priority**

This notice contains one proposed priority.

*Proposed Priority—Developing and Implementing a Statewide Longitudinal Data System That Includes the 12 Required Elements*

*Background:* A State that develops and implements an SLDS that includes the 12 elements required under the America COMPETES Act is more likely to effectively implement education reforms. As a result, a State that meets the SLDS requirements of the SFSF program is more likely to meet the goals of other Federal programs that support efforts to improve the quality of instruction and raise student academic achievement.

Given the importance of full implementation of a complete SLDS system, the Secretary is proposing a priority for a State that has met the requirements of Indicator (b)(1) as established under the SFSF program.

*Proposed Priority:* The Secretary is proposing a priority for a State that has met the requirements of SFSF Indicator (b)(1) on or before the applicable deadline.

#### Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

*Invitational priority:* Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

#### *Enforcement of SFSF Requirements; Proposed Authority To Take Enforcement Action Against SEAs*

The Department only extends the deadline for complying with program requirements when appropriate. The Department is proposing to extend the deadline under this notice to ensure full implementation of key SFSF program requirements. For example, the development and implementation of an SLDS are integral to State and local efforts to improve student academic achievement. In light of the proposed deadline extension, we remind States that the Department has a wide range of actions that it can take to enforce program requirements. For example, the Department has the authority under the provisions of Part E of the General Education Provisions Act (GEPA) (20 U.S.C. 1234 *et seq.*) to take the following enforcement actions: the recovery of funds (section 452 of GEPA), the withholding of funds (section 455 of GEPA), or the establishment of a

compliance agreement (section 457 of GEPA). Additionally, under 34 CFR 80.12, the Department may designate a grantee as high risk for a number of reasons, including failure to comply with the terms and conditions of an award. We also note that, under 34 CFR 75.217, the Department may consider the performance of a grantee when awarding funds in future discretionary grant programs.

As stated previously, the Department proposes that the SEA must jointly request with the Office of the Governor an extension to December 31, 2012, of the January 31, 2012 deadline for Indicators (b)(1), (c)(11), and (c)(12) or the authority to use the alternative standard for Indicator (c)(11). In those cases in which the State has received an extension of a deadline to January 31, 2012 or the authority to use the alternative standard for Indicator (c)(11) but fails to meet the extended deadline or alternative standard, the Department also proposes that it may take enforcement actions against the SEA, including designation as high risk. In such instances the Department would have the authority also to elect not to award funds in a future discretionary grant competition to the SEA.

When implementing enforcement actions, the Department takes into account the specific circumstances of the grantee and the severity of the non-compliance.

#### **Final Revisions to Certain Data Collection and Reporting Requirements and Final Priority**

We will announce the final revisions to the SFSF requirements and final priority in a notice in the **Federal Register**. We will determine the final revisions to the requirements and the final priority after considering any comments submitted in response to this notice and other information available to the Department. This notice does not preclude us from proposing additional revisions to the requirements or additional priorities, subject to meeting applicable rulemaking requirements.

**Note:** This notice does *not* solicit applications. In any year in which we choose to use the priority proposed in this notice, we invite applications through a notice in the **Federal Register**.

#### **Executive Order 12866**

##### *Regulatory Impact Analysis*

Under Executive Order 12866, the Secretary must determine whether this regulatory action is significant and, therefore, subject to the requirements of the Executive Order and to review by the Office of Management and Budget

(OMB). Section 3(f) of Executive Order 12866 defines “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an economically significant rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive Order.

It has been determined that this regulatory action is significant under paragraph (f)(4) of the Executive order. Accordingly, we have assessed the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action and determined that the benefits justify the costs. Additionally, the Department has determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis, we discuss the need for regulatory action, the regulatory alternatives we considered, and the potential costs and benefits of the proposed action.

#### Need for Federal Regulatory Action

The proposed revisions in this notice are the result of a regulatory review<sup>2</sup> of the SFSF requirements established in the November 2009 Notice and also a response to concerns raised by States regarding their capacity to implement those requirements fully. The proposed revisions would eliminate requirements that have been identified through the regulatory review as overly burdensome or unnecessary for the achievement of the intended purposes of the SFSF program. The proposed revisions would also modify requirements that have been identified by certain States as not

<sup>2</sup> As discussed elsewhere in this notice, the regulatory review was conducted in response to the January 18, 2011 Executive Order 13563 entitled “Improving Regulation and Regulatory Review” and the February 28, 2011 Memorandum from the President to executive departments and agencies entitled “Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments.”

feasible to meet by the currently established deadline, by extending the deadline for establishing compliance or providing an alternative compliance standard for States that seek that flexibility. The Secretary believes that these revisions are needed in order for the Department to administer the SFSF program in a manner that enables States to provide sufficient transparency on the extent to which they are implementing education reform actions consistent with the assurances provided in their SFSF applications while affording them an appropriate amount of time and flexibility to implement those actions. The Secretary further believes that this notice's proposed requirements for requesting an extension of the deadline for Indicator (b)(1), (c)(11), or (c)(12) or using the Indicator (c)(11) alternative standard, as well as the proposed requirements for revising plans for those indicators, are necessary to ensure that States' actions are consistent with the requirements for those indicators.

#### Regulatory Alternatives Considered

An alternative to promulgation of the proposed revisions in this notice would be to take no regulatory action and, instead, take enforcement action, such as recovering or withholding Department funds or establishing compliance agreements, against States that fail to comply with the relevant SFSF requirements established in the November 2009 Notice. In general, the Secretary believes that the latter approach would unfairly punish States that the Department believes, based on available information on implementation of SFSF plans, are making a good-faith effort to fully develop their statewide longitudinal data systems and their capacity to collect and report data on student postsecondary enrollment and persistence, but need more time to comply with the SFSF requirements. That said, the Secretary believes, for reasons discussed elsewhere in this notice, that States must fully develop statewide longitudinal data systems and may place on high-risk status those States that fail to comply with the requirements of Indicator (b)(1) by the current or (if approved for the State) extended deadline.

With respect to Indicator (c)(11), the Department considered proposing only an extension of the deadline for collecting and reporting student enrollment data for high school graduates who attend IHEs, but concluded that extending the deadline for the public, in-State IHEs and providing additional flexibility with the

proposed alternative standard for collecting and publicly reporting student enrollment data for high school graduates who attend private and out-of-State public IHEs would better address the capacity concerns raised by States.

#### Summary of Costs and Benefits

##### Proposed Revisions to SFSF Indicator Requirements

In the November 2009 Notice, the Department provided detailed estimates of the costs to States, LEAs, and IHEs of complying with the SFSF requirements. We have assessed the potential costs and benefits of the proposed revisions to those requirements in this notice and determined that they would impose no net additional costs to States, LEAs, or IHEs.

On the contrary, the proposed revisions would produce potential net cost savings.<sup>3</sup> For instance, the proposed elimination of the annual reporting requirements for Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6) would confer savings by reducing collection and reporting burden on States and LEAs. Although it would confer some new cost (as discussed in more detail later in this section), the proposed Indicator (c)(11) alternative standard would confer net savings to States using the standard (and to affected LEAs and IHEs) by no longer requiring that those States, at a minimum, fully develop the capacity to collect and report, by September 30, 2011, enrollment data for high school graduates who enroll in private or out-of-State public IHEs. The proposed extensions of the compliance deadlines for Indicators (b)(1), (c)(11), and (c)(12) would not add to the costs of complying with the associated requirements and might result in marginal savings (calculated on a present-value basis) as States would be able to spread the compliance costs over a longer period of time.

Apart from potential cost savings, the benefits of the proposed revisions are, as discussed elsewhere in this notice, simplified and more streamlined SFSF requirements that still provide the Department and the public with useful information on whether States are implementing education reforms consistent with the statutorily required assurances.

States using the proposed Indicator (c)(11) alternative standard would incur minimal new costs. Under the standard, a State would be required to publicly

report, by December 31, 2012, information on the extent to which it has data-sharing agreements with private and out-of-State public IHEs that enable the State to track its recent high school graduates and demonstrate certain concrete steps it had taken to increase its capacity to track its high school graduates who enrolled in private and out-of-State public IHEs. We estimate that a State would need, on average, 40 hours to collect and report this information. At \$30 per hour, the average cost of doing so is an estimated \$1,200.

Based on information available from States on implementation of their SFSF plans, we estimate that 43 States will request use of the Indicator (c)(11) alternative standard. The total estimated cost to States for complying with the proposed Indicator (c)(11) alternative standard reporting requirements is accordingly \$51,600 (\$1,200 times 43 States).

Proposed Requirements for Requests for Extensions of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard, and Proposed Requirements for Revised Plans for Indicator (b)(1), (c)(11), or (c)(12)

The costs for complying with these proposed requirements would, in general, be minimal. Because States that do not meet the requirements associated with an SFSF indicator or descriptor were already required to submit a plan for achieving compliance that includes progress tracking and providing regular public progress reports, we do not believe that any new effort would be needed in order for a State to determine whether to request an extension of the deadline for Indicator (b)(1), (c)(11), or (c)(12) or use of the Indicator (c)(11) alternative standard.

In requesting a deadline extension or use of the alternative standard, a State would be required to provide a description of its current capacity with respect to the applicable indicator and a signed assurance that it will comply with the revised requirements for the indicator and will submit its plan for doing so to the Department within 60 days of the request. The level of effort needed to meet these requirements would be minimal. We estimate that a State would need, on average, eight hours to complete such a request. At \$30 per hour, the average cost of completing a request is an estimated \$240.

Based on information available from States on implementation of their SFSF plans, we estimate that 40 States will request an extension of the deadline for

<sup>3</sup> We have not provided estimates of potential cost savings in this notice because we cannot reasonably estimate the amount of funds States have already spent to meet the applicable SFSF requirements.

Indicator (b)(1), 43 States will request an extension of the deadline for Indicator (c)(11), 47 States will request an extension of the deadline for Indicator (c)(12), and 43 States will request use of the Indicator (c)(11) alternative standard. In total, States will complete an estimated 173 requests. At \$240 per request, the total estimated cost to States for complying with the proposed requirements for requests is \$41,520 (\$240 times 173 requests).

A State requesting a deadline extension or the use of the Indicator (c)(11) alternative standard would then be required to submit to the Department, within 60 days, a revised plan with respect to the applicable indicator that includes the specific steps the State will take to meet the revised requirements for the indicator, the budget for developing and implementing the revised plan, and the responsible agency or agencies. The cost of meeting these proposed plan revision requirements should also be minimal. We estimate that a State would need, on average, eight hours to complete a plan revision consistent with the requirements. At \$30 per hour, the average cost of completing a plan revision is an estimated \$240.

As discussed above, States will complete an estimated 173 total requests for deadline extensions or for use of the Indicator (c)(11) alternative standard. Accordingly, we estimate that States will complete, at most, 173 plan revisions.<sup>4</sup> At \$240 per revision, the total estimated cost to States for complying with the proposed plan revision requirements is \$41,520 (\$240 per revision times 173 requests).

The total estimated cost for complying with the proposed requirements for requests and for plan revisions is accordingly \$83,040.

The November 2009 notice detailed the cost of collecting and reporting the information and data associated with Indicators (b)(1), (c)(11), and (c)(12) on an annual basis. We expect that the cost of meeting these requirements will be reduced because most States have completed a substantial amount of the work related to collecting and reporting the required information. However, States requesting an extension of Indicators (b)(1), (c)(11), or (c)(12) will need to report the information and data

<sup>4</sup> A State requesting both an extension of the deadline for Indicator (c)(11) (as it applies to data on student enrollment in in-State public IHEs) and use of the alternative standard for that indicator (as it applies to data on student enrollment in private and out-of-State public IHEs) could address both of these requests in a single plan revision for the indicator. Consequently, the total number of completed plan revisions will almost certainly be lower than this estimate.

for an additional year. We discuss the costs associated with reporting these indicators for an additional year below.

We estimate that, on average, a State would need one hour to collect and report the information associated with Indicator (b)(1). This is a one hour reduction from the estimate in the November 2009 Notice because States have indicated that, on average, they have completed 50 percent of the work associated with collecting and reporting this information. Based on information available from States on implementation of their SFSF plans, we expect that 40 States will need to collect and report this information. At \$30 per hour, the average cost for collecting and reporting this information is \$30. The total estimated cost for complying with the Indicator (b)(1) reporting requirements is \$1,200 (\$30 per hour times 40 States).

As 9 States have already met the requirement for Indicator (c)(11), we expect that 43 States will need to collect and report the information associated with it, or provide evidence that they have developed the capacity to do so, for students who attend in-State, public IHEs. We estimate that, on average, a State would need 40 hours to meet this requirement. This is a reduction from the average hours per response in the November 2009 Notice because this estimate only includes reporting on students who attend in-State, public IHEs rather than all students enrolled in an IHE. The remaining students will be covered under the (c)(11) alternative standard. At \$30 per hour, we estimate that the average cost of meeting this requirement is \$1,200. The total estimated cost for States to comply with the requirements for Indicator (c)(11) is \$51,600 (\$1,200 per State times 43 States).

The 13,409 LEAs located in those 43 States would need to provide information associated with Indicator (c)(11). Based on an estimate of the total number of students enrolled in public IHEs in their home State,<sup>5</sup> and based on

<sup>5</sup> According to the Digest of Education Statistics, 2009, 2,240,414 first-time freshmen enrolled in public, degree-granting IHEs in fall 2008, which represented 74 percent of all first-time freshmen. See [http://nces.ed.gov/programs/digest/d09/tables/dt09\\_199.asp](http://nces.ed.gov/programs/digest/d09/tables/dt09_199.asp). Also in fall 2008, 2,109,931 freshmen who graduated from high school within the last 12 months attended degree-granting IHEs in their home State, which represented 81 percent of all freshmen. See [http://nces.ed.gov/programs/digest/d09/tables/dt09\\_223.asp](http://nces.ed.gov/programs/digest/d09/tables/dt09_223.asp). 1. An estimate of the number of first-time freshmen enrolled in public, degree-granting IHEs in their home State can be derived two ways. Applying the percentage of first-time freshmen attending public degree-granting IHEs to the number of first-time freshmen attending an IHE in their home State yields an estimate of 1,508,484, and applying the percentage of first-time freshmen attending an IHE in their home State to

the assumption that LEAs could provide this information at a rate of 20 students per hour, we estimate that these LEAs will require a total of 84,584 hours to comply with the requirements for Indicator (c)(11) at a total cost of \$2,114,597. Divided by the total number of affected LEAs, we estimate that each LEA would require 6.31 hours to provide this information. This would be a reduction from the average hours per response in the November 2009 Notice because the current estimate only relates to students who attend in-State, public IHEs rather than all students attending an IHE. Information on the remaining students will be covered under the (c)(11) alternative standard. At \$25 per hour, the average cost per LEA of meeting the requirements of this Indicator is approximately \$158.

Again, based on our estimate of the total number of students enrolled in public IHEs in their home State and the assumption that IHEs could provide this information at a rate of 20 students per hour, we estimate that a total of 84,584 hours would be required for the 1,676 IHEs in the 43 affected States to respond to this requirement. On average, each IHE would need 50.47 hours to collect and report the information associated with Indicator (c)(11). This would be an increase in the average hours per response in the November 2009 Notice because this estimate only relates to students who attend in-State public IHEs rather than all students attending an IHE. The remaining students will be covered under the (c)(11) alternative standard. The average burden per response increased from the burden estimated in the November 2009 Notice because the analysis now accounts for in-State public IHEs in the 43 States that have not yet met this requirement. Since 74 percent of freshmen attend in-State public IHEs, the burden in this notice is higher because it is no longer shared with private and out-of-State IHEs, which led to lower overall burden that we estimated for all IHEs in the November 2009 Notice. We expect that 1,676 IHEs will need to provide this information. At \$25 per hour, the average cost per IHE for collecting and reporting this information is \$1,261.75. The total estimated cost for IHEs to

the number of first-time freshmen attending public degree-granting IHEs yields an estimate of 2,169,077. For the purposes of this estimate, the Department chooses the midpoint of these figures, which is 1,838,780. Applying the estimate (described earlier) that 94 percent of all first-time postsecondary students graduated from public schools, the Department estimates that 1,691,678 public high school graduates enroll in public degree-granting IHEs in their home State.

comply with the reporting requirements for Indicator (c)(11) is \$2,114,597.

The total estimated cost for complying with the reporting requirements in Indicator (c)(11) is \$4,280,794.

Based on information provided by the States, we expect that 47 States will need to collect and report the information associated with Indicator (c)(12). We estimate that, on average, a State would need 20 hours to collect and report the information. This represents a 20 hour reduction from our estimate in the November 2009 Notice because States have indicated that, on average, they have completed 50 percent of the work associated with this Indicator. At \$30 per hour, the average cost for collecting and reporting this information is \$600. The total estimated cost for States to comply with the reporting requirements for Indicator (c)(12) is \$28,200 (\$600 per State times 47 States).

The 1,555 IHEs located in these States would be required to report information on the number of students who have completed at least one year's worth of college credit within two years of enrollment in the IHE. Based on data from the Digest of Education Statistics, we estimate that 1,140,855 first-time freshmen are enrolled in degree-granting in-State public IHEs in the 47 States that have not yet met this requirement. We estimate that IHEs could provide this information at a rate of 20 students per hour, which leads to approximately 57,043 hours of total effort across the affected IHEs at an estimated cost of \$1,426,069. By dividing this total number of hours by the 1,555 public IHEs in the 47 States, we estimate that, on average, an IHE would need 36.68 hours to collect and report the information associated with Indicator (c)(12). This represents a reduction from the average hours per response that we estimated in the November 2009 Notice because some States with higher than average percentages of in-State students have already completed this work. We estimate a reduced average response time after excluding the IHEs from States that have completed the work from the calculation. At \$25 per hour of IHE effort, we estimate that the average cost for collecting and reporting this information is \$917 per IHE.

The total estimated cost for complying with the reporting requirements in Indicator (c)(12) is \$1,454,269. The total estimated cost for complying with the collection and reporting requirements associated with (b)(1), (c)(11), and (c)(12) is accordingly \$5,736,263.

The total estimated cost for complying with those collection and reporting requirements and the proposed

requirements in this notice is \$5,870,903.

#### *Regulatory Flexibility Act Certification*

The Secretary certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities. The small entities that this regulatory action will affect are small LEAs receiving funds under this program and small IHEs.

This regulatory action will not have a significant economic impact on small LEAs because they will be able to meet the costs of compliance with this regulatory action using the funds provided under this program.

With respect to small IHEs, the U.S. Small Business Administration Size Standards define these institutions as "small entities" if they are for-profit or nonprofit institutions with total annual revenue below \$5,000,000 or if they are institutions controlled by small governmental jurisdictions, which are comprised of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000. Based on data from the Department's Integrated Postsecondary Education Data System (IPEDS), up to 427 small IHEs with revenues of less than \$5 million may be affected by these requirements; only 33 of these IHEs are public. These small IHEs represent only 13 percent of degree-granting IHEs. In addition, only 98,032 students (0.5 percent) enrolled in degree-granting IHEs in fall 2007 attended these small institutions; just 11,830 of these students are enrolled in small, degree-granting public IHEs. As the burden for indicators (c)(11) and (c)(12) is driven by the number of students for whom IHEs would be required to submit data, small IHEs will require significantly less effort to adhere to these requirements than will be the case for larger IHEs. Based on IPEDS data, the Department estimates that 1,873 of these students are first-time freshmen. As stated earlier in the *Summary of Costs and Benefits* section of this notice, the Department estimates that, as required by indicator (c)(11), IHEs will be able to confirm the enrollment of 20 first-time freshmen per hour. Applying this estimate to the estimated number of first-time freshmen at small IHEs, the Department estimates that these IHEs will need to spend 94 hours to respond to this requirement at a total cost of \$2,350 (assuming a cost of \$25 per hour).

The effort involved in reporting the number of students enrolling in a public IHE in their home State who complete at least one year's worth of college credit applicable toward a degree within

two years as required by indicator (c)(12) will also apply to small IHEs, but will be limited to students who enroll in public IHEs in their home State. As discussed earlier in the *Summary of Costs and Benefits* section of this notice, the Department estimates that 81 percent of first-time freshmen who graduate from public high schools enroll in degree-granting IHEs in their home State. Applying this percentage to the estimated number of first-time freshmen enrolled in small public IHEs (1,873), the Department estimates that small IHEs will be required to report credit completion data for a total of 1,517 students. For this requirement, the Department also estimates that IHEs will be able to report the credit completion status of 20 first-time freshmen per hour. Again, applying this data entry rate to the estimated number of first-time freshmen at small public IHEs in their home State, the Department estimates that these IHEs will need to spend 76 hours to respond to this requirement at a total cost of \$1,900. The total cost of these requirements for small IHEs is, therefore, \$4,250; \$2,068 of this cost will be borne by small private IHEs, and \$2,182 of the cost will be borne by small public IHEs. Based on the total number of small IHEs across the Nation, the estimated cost per small private IHE is approximately \$10, and the estimated cost per small public IHE is \$66. The Department has, therefore, determined that the requirements will not represent a significant burden on small not-for-profit IHEs. It is also important to note that States may use their Government Services Fund allocations to help small IHEs meet the costs of complying with the requirements that affect them, and public IHEs may use Education Stabilization Fund dollars they receive for that purpose.

In addition, the Department believes the benefits provided under this regulatory action will outweigh the burdens on these institutions of complying with the requirements. One of these benefits will be the provision of better information on student success in postsecondary education to policymakers, educators, parents, and other stakeholders. The Department believes that the information gathered and reported as a result of these requirements will improve public accountability for performance; help States, LEAs, and schools learn from one another and improve their decision-making; and inform Federal policymaking.

A second major benefit is that better public information on State and local progress in the four reform areas will

likely spur more rapid progress on those reforms, because States and LEAs that appear to be lagging in one area or another may see a need to redouble their efforts. The Department believes that more rapid progress on the essential educational reforms will have major benefits nationally, and that these reforms have the potential to drive dramatic improvements in student outcomes. The requirements that apply to IHEs should, in particular, spur more rapid implementation of pre-K–16 State longitudinal data systems.

#### *Paperwork Reduction Act of 1995*

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: The public understands the Department's collection instructions; respondents can provide the requested data in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the Department can properly assess the impact of collection requirements on respondents.

This notice of proposed revisions contains information collection requirements previously approved under OMB control number 1810–0695, revisions to which are proposed herein. The Department has contemporaneously published a notice of interim final requirements that extends the deadline for reporting under the existing performance indicators (See RIN 1894–AA03). Under the PRA the Department has submitted both the information collection contained in the IFR and the revised information collection requirements contained in this notice to OMB for its review.

A Federal agency cannot conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In the final requirements, we will display the control number assigned by OMB to any information collection requirement proposed in this notice of

proposed revisions and adopted in the final requirements.

#### *Revisions to SFSF Indicator (c)(11) Requirements*

Under the proposed Indicator (c)(11) alternative standard, a State would be required to publicly report, by December 31, 2012, information on the extent to which it has data-sharing agreements with private and out-of-State public IHEs that enable the State to track its recent high school graduates. We estimate that a State would need, on average, 40 hours to collect and report this information.

Based on information available from States on implementation of their SFSF plans, we estimate that 43 States will request use of the Indicator (c)(11) alternative standard. The total estimated hours for States to comply with the proposed Indicator (c)(11) alternative standard reporting requirements is accordingly an increase of 1,720 hours (40 hours per request times 43 requests) under collection 1810–0695.

#### *Proposed Requirements for Requests for Extensions of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard, and Proposed Requirements for Revised Plans for Indicators (b)(1), (c)(11), and (c)(12)*

Because States that did not meet the requirements associated with an SFSF indicator or descriptor were required to submit a plan for achieving compliance that includes progress tracking and providing regular public progress reports, we do not believe that any new effort would be needed in order for a State to determine whether to request an extension of the deadline for Indicator (b)(1), (c)(11), or (c)(12) or use of the Indicator (c)(11) alternative standard.

In requesting a deadline extension or use of the alternative standard, a State would be required to provide a description of its current capacity with respect to the applicable indicator and a signed assurance that it will comply with the revised requirements for the indicator and will submit its plan for doing so to the Department within 60 days of the request. The level of effort needed to meet these requirements would be minimal. We estimate that a State would need, on average, eight hours to complete such a request.

Based on information available from States on implementation of their SFSF plans, we estimate that 40 States will request an extension of the deadline for Indicator (b)(1), 43 States will request an extension of the deadline for Indicator (c)(11), 47 States will request an

(c)(12), and 43 States will request use of the Indicator (c)(11) alternative standard. In total, States will complete an estimated 173 requests. The total estimated hours for States to comply with the proposed requirements for requests is an increase of 1,384 hours (eight hours per request times 173 requests) under collection 1810–0695.

A State requesting a deadline extension or the use of the Indicator (c)(11) alternative standard would then be required to submit to the Department, within 60 days, a revised plan with respect to the applicable indicator that includes the specific steps the State will take to meet the revised requirements for the indicator, the budget for developing and implementing the revised plan, and the responsible agency or agencies. We estimate that a State would need, on average, eight hours to complete a plan revision consistent with the requirements.

As discussed above, States will complete an estimated 173 total requests for deadline extensions or for use of the Indicator (c)(11) alternative standard. Accordingly, we estimate that States will complete, at most, 173 plan revisions.<sup>6</sup> At eight hours per revision, the total estimated burden to States for complying with the proposed plan revision requirements is an increase of 1,384 hours (eight hours per request times 173 requests) under collection 1810–0695.

The total estimated burden for complying with the proposed requirements for requests and for plan revisions is accordingly 2,768 hours.

After requesting an extension and providing a plan, a State would be required to collect and report the information associated with Indicators (b)(1), (c)(11), and (c)(12) by December 31, 2012. Based on information available from States on implementation of their SFSF plan, we estimate that 40 States will need to report and collect the information associated with Indicator (b)(1). At an estimated one hour per collection and report, the total estimated burden to States is an increase of 40 hours (one hour per State times 40 States) under collection 1810–0695. The average response time of one hour per collection is a one hour reduction from the estimates we provided in the November 2009 Notice because States

<sup>6</sup> A State requesting both an extension of the deadline for Indicator (c)(11) (as it applies to data on student enrollment in in-State public IHEs) and use of the alternative standard for that indicator (as it applies to data on student enrollment in private and out-of-State public IHEs) could address both of these requests in a single plan revision for the indicator. Consequently, the total number of completed plan revisions will likely be lower than this estimate.

have indicated that, on average, they have completed 50 percent of the work associated with reporting on this indicator.

As 9 States have already met the requirement for Indicator (c)(11), we expect that 43 States will need to collect and report the information associated with Indicator (c)(11), or provide evidence that they have developed the capacity to do so, for students who attend in-State, public IHEs. We estimate that, on average, a State would need 40 hours to meet this requirement. This is a reduction from the average hours per response that we estimated in the November 2009 Notice because the current estimate only relates to students who attend in-State, public IHEs rather than all students enrolled in an IHE. The remaining students will be covered under the (c)(11) alternative standard. The current estimate would equal a 1,720 hour (40 hours per State times 43 States) increase under collection 1810–0695.

The 13,409 LEAs located in those 43 States would need to provide information associated with Indicator (c)(11). Based on an estimate of the total number of students enrolled in public IHEs in their home State,<sup>7</sup> and based on the assumption that LEAs could provide this information at a rate of 20 students per hour, we estimate that these LEAs will require a total of 84,584 hours to

<sup>7</sup> According to the Digest of Education Statistics, 2009, 2,240,414 first-time freshmen enrolled in public, degree-granting IHEs in fall 2008, which represented 74 percent of all first-time freshmen. See [http://nces.ed.gov/programs/digest/d09/tables/dt09\\_199.asp](http://nces.ed.gov/programs/digest/d09/tables/dt09_199.asp). Also in fall 2008, 2,109,931 freshmen who graduated from high school within the last 12 months attended degree-granting IHEs in their home State, which represented 81 percent of all freshmen. See [http://nces.ed.gov/programs/digest/d09/tables/dt09\\_223.asp](http://nces.ed.gov/programs/digest/d09/tables/dt09_223.asp). 1. An estimate of the number of first-time freshmen enrolled in public, degree-granting IHEs in their home State can be derived two ways. Applying the percentage of first-time freshmen attending public degree-granting IHEs to the number of first-time freshmen attending an IHE in their home State yields an estimate of 1,508,484, and applying the percentage of first-time freshmen attending an IHE in their home State to the number of first-time freshmen attending public degree-granting IHEs yields an estimate of 2,169,077. For the purposes of this estimate, the Department chooses the midpoint of these figures, which is 1,838,780. Applying the estimate (described earlier) that 94 percent of all first-time postsecondary students graduated from public schools, the Department estimates that 1,691,678 public high school graduates enroll in public degree-granting IHEs in their home State.

comply with the requirements for Indicator (c)(11). Divided by the total number of affected LEAs, we estimate that each LEA would require 6.31 hours to provide this information. This would be a reduction from the average hours per response estimated in the November 2009 Notice because the current estimate only relates to students who attend in-State, public IHEs rather than all students attending an IHE. Information on the remaining students will be covered under the (c)(11) alternative standard.

Again, based on our estimate of the total number of students enrolled in public IHEs in their home State and the assumption that IHEs could provide this information at a rate of 20 students per hour, we estimate that, a total of 84,584 hours would be required for the 1,676 IHEs in the 43 affected States to respond to this requirement. On average, each IHE would need 50.47 hours to provide the information associated with Indicator (c)(11). This would be an increase in the average hours per response estimated in the November 2009 Notice because this estimate only relates to students who attend in-State public IHEs rather than all students attending an IHE. The remaining students will be covered under the (c)(11) alternative standard. The average burden per response increased from the burden estimated in the November 2009 Notice because the analysis now accounts for in-State public IHEs in the 43 States that have not yet met this requirement. Because 74 percent of freshmen attend in-State public IHEs, the burden under these proposed revisions is higher because it is no longer shared with private and out-of-State IHEs, which led to an estimate of a lower overall burden for all IHEs in the November 2009 Notice. We expect that 1,676 IHEs will need to provide this information.

The total estimated hours for complying with the requirements of Indicator (c)(11) is 170,888.

We estimate that the State burden for collecting and reporting the information associated with Indicator (c)(12), or providing evidence that the State has developed the capacity to do so, will be approximately 20 hours per State. This is a 20 hour reduction from the estimates in the November 2009 Notice

because States have indicated that they have, on average, completed 50 percent of the work for this Indicator. Based on information provided by the States, we expect that 47 States will need to provide this information. Accordingly, the total burden to States is an increase of 940 hours (20 hours per State times 47 States) under collection 1810–0695.

The 1,555 IHEs located in these States would be required to report information on the number of students who have completed at least one year's worth of college credit within two years of enrollment in the IHE. Based on data from the Digest of Education Statistics, we estimate that 1,140,855 first-time freshmen are enrolled in degree-granting in-State public IHEs in the 47 States that have not yet met this requirement. We estimate that IHEs could provide this information at a rate of 20 students per hour, which leads to approximately 57,043 hours of total effort across the affected IHEs. By dividing the total number of hours by the 1,555 public IHEs in the 47 States, we estimate that, on average, an IHE would need 36.68 hours to collect and report the information associated with Indicator (c)(12). The average hours per response is less than the estimate in the November 2009 Notice because some States with higher than average percentages of in-State students have already completed this work. Excluding the IHEs from these States from the calculations led to a reduced average response time.

The total estimated burden hours for complying with the collection and reporting requirements for Indicator (c)(12) is 57,983.

The estimated burden hours for complying with the collection and reporting requirements associated with the proposed Indicator (c)(11) alternative standard is discussed above.

The total estimated burden hours for complying with the proposed collection and reporting requirements associated with Indicators (b)(1), (c)(11) and (c)(12) is accordingly 228,911 hours.

The total estimated burden for complying with the proposed requirements in this notice is an increase of 233,399 hours under collection 1810–0695.

## COLLECTION OF INFORMATION

Information collection	OMB Control No. and estimated change in burden
This notice of proposed revisions proposes an extension for collecting and reporting information associated with Indicators (b)(1), (c)(11), and (c)(12); an alternative standard for Indicator (c)(11); proposes requirements for requests for extensions of deadlines for Indicators (b)(1), (c)(11), and (c)(12); and proposes requirements for revised plans for Indicators (b)(1), (c)(11), and (c)(12).	OMB 1810-0695. The burden would increase by 233,399 hours.

If you want to comment on the proposed information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education. Send these comments by e-mail to [OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov) or by fax to (202) 395-6974. You may also send a copy of these comments to the Department contact named in the **ADDRESSES** section of this preamble.

We have prepared an Information Collection Request (ICR) for this collection. In preparing your comments you may want to review the ICR, which we maintain in the Education Department Information Collection System (EDICS) at <http://edicsweb.ed.gov>. Click on Browse Pending Collections. This proposed collection is identified as proposed collection 1810-0695.

We consider your comments on this proposed collection of information in—

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments on the proposed collection within 30 days after publication. This does not affect the deadline for your comments to us on the proposed regulations.

#### Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e-4, the Department invites comment on whether these requirements require transmission of information that any other agency or authority of the United States gathers or makes available.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: <http://www.gpo.gov/fdsys>. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: <http://www.federalregister.gov>. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.394 (Education Stabilization Fund) and 84.397 (Government Services Fund).

Dated: September 19, 2011.

**Arne Duncan,**

*Secretary of Education.*

[FR Doc. 2011-24563 Filed 9-22-11; 8:45 am]

**BILLING CODE 4000-01-P**

## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3001

[Docket No. RM2011-13; Order No. 823]

#### Appeals of Post Office Closings

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Proposed rulemaking—supplement.

**SUMMARY:** This document supplements a recently-issued proposed rulemaking on appeals of post office closings by eliminating a publication requirement and by making several minor conforming changes. Including these changes as part of the more comprehensive rulemaking promotes efficiency by allowing interested persons to address proposed changes in one filing. These changes affect only the Commission's general rules of practice and procedure. They do not affect any of the provisions in proposed new part 3025. Persons who need additional time to comment on the changes in this supplemental proposed rule may request additional time.

**DATES:** *Comments are due:* October 3, 2011.

**ADDRESSES:** Submit comments electronically by accessing the "Filing Online" link in the banner at the top of the Commission's Web site (<http://www.prc.gov>) or by directly accessing the Commission's Filing Online system at <https://www.prc.gov/prc-pages/filingonline/login.aspx>. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for advice on alternatives to electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202-789-6920 (for proposal-related information) or [DocketAdmins@prc.gov](mailto:DocketAdmins@prc.gov) (for electronic filing assistance).