position of each person responsible for the denial, and the provisions for judicial review of that determination under the provisions of 5 U.S.C. 552(4)(B). Even if no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the General Counsel or the Chairman of the Board may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of an adverse determination under this appeal procedure by written notification to the person making the request. In such event, the time limit for making the determination shall commence with the issuance of such notification. An adverse determination by the General Counsel or the Chairman of the Board, as the case may be, will be the final action of the Agency. If the requester wishes to seek review by a court of any adverse determination, the requester must first appeal it under this section.

* * * * *

Signed in Washington, DC, January 25, 2012.

Mark Gaston Pearce,

Chairman.

[FR Doc. 2012–2059 Filed 1–30–12; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF EDUCATION

34 CFR Subtitle B, Chapter II

[Docket ID ED–2011–OS–0005]

RIN 1894–AA02

Final Revisions to Certain Data Collection and Reporting Requirements, Final Priority; State Fiscal Stabilization Fund Program and Discretionary and Other Formula Grant Programs

AGENCY: Department of Education.

ACTION: Revisions to certain data collection and reporting requirements, and final priority.

SUMMARY: The Secretary of Education (Secretary) issues final revisions to certain data collection and reporting requirements, and a final priority, under the State Fiscal Stabilization Fund program.

DATES: Effective March 1, 2012.

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 email: *State.Fiscal.Fund@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:

Purpose of Program: The State Fiscal Stabilization Fund (SFSF) program provided States approximately $48.6 billion in formula grants to help stabilize State and local budgets and minimize and avoid reductions in education and other essential services. In exchange, States committed to advance education reform in four key areas: (1) Achieving equity in the distribution of effective 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 (ARRA), Division A, Title XIV—State Fiscal Stabilization Fund, Public Law 111–5; 20 U.S.C. 1221e–3 and 3474.

Summary of Final Revisions: In this notice, the Secretary (1) exempts certain States from collecting and reporting on Descriptors (a)(1) and (a)(2) and Indicators (a)(3) through (a)(7); (2) eliminates the requirement for States to report data annually for Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6); (3) extends to December 31, 2013, upon submission of an approvable request by a State, the deadline for meeting the requirements under Indicators (b)(1) and (c)(12); (4) extends to December 31, 2013, upon submission of an approvable request by a State, the deadline for collecting and 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 (5) applies 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 in-state private, out-of-state private, or out-of-state public IHEs. The Secretary establishes December 31, 2013, as the deadline by which a State must meet the requirements of the Indicator (c)(11) alternative standard.

In addition, the Secretary establishes 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. Further, the Secretary establishes the authority to extend those sanctions to State educational agencies (SEAs) in States that have received an extension of the deadline to December 31, 2013, for Indicator (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.

The Department also establishes the authority to take enforcement action against an SEA under certain circumstances where a State fails to meet the requirements of Indicators (b)(1), (c)(11), or (c)(12).

Background: Section 14005(d) of Division A of the ARRA required a State receiving funds under the SFSF program to provide assurances in four key areas of education reform: (1) Achieving equity in the distribution of effective teachers; (2) improving collection and use of data; (3) standards and assessments; and (4) supporting struggling schools.

In a notice of final requirements, definitions, and approval criteria published in the **Federal Register** on November 12, 2009 (74 FR 58436) (November 2009 Notice), the Department established specific data and information requirements (assurance indicators and descriptors) that a State had to meet to demonstrate compliance with 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. These plans describe the steps a State would take to collect and publicly report, or to develop the capacity to collect and publicly report, the required data and other information.

As we explained in the November 2009 Notice, these two sets of requirements make transparent the extent to which a State is implementing the promised reforms. 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 the actions in this notice 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 and determine whether any should be modified, streamlined, expanded, or repealed so as to make the department's or agency's regulatory program more effective or less burdensome. These modifications

address concerns raised by some States about the time necessary to meet the requirements in the November 2009 Notice.

As a result of our regulatory review of the SFSF program requirements, we also are publishing elsewhere in this issue of the **Federal Register** a notice of final requirement extending to January 31, 2012, the deadline for States to meet the data collection and reporting requirements of the SFSF indicators.

We note that in addition to the revised January 31, 2012, deadline for meeting the SFSF requirements, we are modifying certain other data collection and reporting requirements in this notice. All other SFSF 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 in this notice.

On September 23, 2011, we published a notice of proposed revisions to certain data collection and reporting requirements and proposed priority (NPR) in the **Federal Register** (76 FR 59074).

Public Comment: In response to our invitation in the NPR, we received comments from six entities. There are several differences between the NPR and these final requirements.

In the following section, we discuss substantive issues under the sections of the requirements to which they pertain. Generally, we do not address technical and other minor changes, or suggested changes the applicable statutory authority does not authorize us to make. In addition, we do not address general comments that raised concerns not directly related to the proposed provisions or the proposed priority.

Analysis of Comments and Changes: Deadline for Complying With Indicators (b)(1), (c)(11), AND (c)(12).

Comment: Three commenters expressed support for the Department's proposal to extend beyond January 31, 2012, the deadline for developing and implementing a statewide longitudinal data system (SLDS) under Indicator (b)(1) that includes all the 12 elements required under the America COMPETES Act. Further, five commenters supported the Department's proposal to extend beyond January 31, 2012, the deadline for complying with the requirements of Indicator (c)(11). One of these commenters stated that the need to establish a longer time frame for full compliance with Indicator (c)(11) seemed fair as it responded to comments that were discussed in the November 2009 Notice. In addition, one commenter expressed concerns about the cost of obtaining information on students who attend private and out-of-state IHEs.

Discussion: The Department appreciates the concerns expressed by commenters regarding the ability of States to fully comply with the requirements of Indicators (b)(1) and (c)(11) in a timely fashion. These concerns would also apply to Indicator (c)(12) because compliance with the requirements of that indicator is dependent upon the development and implementation of an SLDS. Because of these concerns, the Department believes that it is appropriate to extend the deadline for meeting the requirements of Indicators (b)(1), (c)(11), and (c)(12) to December 31, 2013 rather than December 31, 2012, as proposed in the NPR. An extension will be granted only to those States that submit an approvable extension request.

Change: The Department extends to December 31, 2013, upon submission of an approvable request by a State—

(a) The deadline for the development and implementation of an SLDS under Indicator (b)(1) that includes the 12 elements included in the America COMPETES Act;

(b) The deadline by which a State must collect and publicly report, or have the capacity to collect and publicly report, the required course completion data under Indicator (c)(12); and

(c) 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.

Under the alternative standard for Indicator (c)(11), the Department extends to December 31, 2013, the deadline by which a State must increase 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.

Process for Requesting an Extension

Comment: One commenter suggested that the Department (1) create a streamlined and user-friendly form to request deadline extensions and use of the alternative standard; (2) approve extension requests for complying with the requirements of Indicators (b)(1), (c)(11), and (c)(12) before requiring a State to provide a revised plan for the applicable indicator; and (3) automatically grant an extension of the deadline for an indicator if the State has a later deadline for the same activity under another Department program.

Discussion: The Department is providing a streamlined and user-friendly form for requests to extend a deadline or use the alternative standard. The Department will approve these requests on the basis of assurances provided by the Governor and the Chief State School Officer. The State will have 60 days after submission of the request to provide the revised plan. If a State fails to meet the revised and approved State plan requirements, the Department will take appropriate enforcement actions. The Department's program offices do coordinate implementation of program requirements under various statutory or regulatory authorities. However, many programs have specific requirements that differ from the requirements of other programs. As a result, the Department often establishes program-specific requirements and deadlines and will not automatically extend the deadline for complying with the SFSF indicators and descriptors on the basis of a later deadline for another program.

Changes: None.

Elimination of Annual Reporting Requirements for Certain Indicators

Comment: One commenter supported the elimination of the annual reporting requirements for Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6).

Discussion: The Department appreciates the support of the commenter and, as stated in the NPR, we do not believe that it is necessary to have States annually collect and publicly report these data given the availability of the data from other sources.

Changes: None.

Teacher and Principal Evaluation Systems

Comment: One commenter suggested that the Department extend beyond January 31, 2012, the deadline for

collecting and publicly reporting data related to teacher and principal evaluation systems. The commenter noted that the January 31, 2012, deadline is inconsistent with the timelines for the development and implementation of teacher and principal evaluation systems outlined in the September 23, 2011, ESEA Flexibility guidance.

Discussion: The Department agrees that a State with an approved ESEA Flexibility request should not have to report data and information on the current teacher and principal evaluation systems of its local educational agencies (LEAs) by the January 31, 2012, SFSF deadline because that State will have committed to developing, adopting, piloting, and implementing rigorous teacher and principal evaluation and support systems. The deadline for implementing rigorous teacher and principal evaluation systems under the ESEA Flexibility extends beyond the January 31, 2012, SFSF deadline. Therefore, the Department is eliminating the requirement for a State to collect and publicly report data under SFSF Descriptors (a)(1) and (a)(2) and Indicators (a)(3) through (a)(7) if that State has an approved ESEA Flexibility request.

Changes: We have modified the final requirements to provide that the collection and public reporting requirements under SFSF Descriptors (a)(1) and (a)(2) and Indicators (a)(3) through (a)(7) do not apply to a State that has an approved ESEA Flexibility request. Statewide Longitudinal Data System (Indicator (b)(1))

Comment: One commenter asked whether development and implementation of an SLDS may be predicated on the State's receiving an award under the Statewide Longitudinal Data Systems grant.

Discussion: ARRA requires all States, as a condition of receiving funds under the SFSF program, to develop and implement an SLDS that includes all 12 elements required under the America COMPETES Act. In its application for SFSF funding, each State assured that it would meet this requirement by the established deadline. Thus, a State must develop and implement such a system whether or not it receives an SLDS grant. A State could have used, among other funds, SFSF Government Services funds to meet this requirement.

Changes: None.

Comment: One commenter requested that the Department be flexible in determining whether a State has developed and implemented an SLDS that includes the 12 elements and that the Department share with States any expectations that it has for those elements.

Discussion: The Department understands that individual States' longitudinal data systems may vary and still meet the requirements of the America COMPETES Act. In addition, the Department acknowledges that State requirements and processes may affect the manner in which a State complies with ARRA's requirements. The Department will consider these factors when considering a State's compliance with the requirements of Indicator (b)(1). The Department intends to work collaboratively with States while reviewing State compliance with SFSF requirements, as it has done during the initial SFSF monitoring reviews.

Changes: None.

Comment: One commenter suggested that the Department require a State to provide, in its request for a further extension of the deadline for Indicator (b)(1), a description of the challenges that cause the need for the extension.

Discussion: During the Department's monitoring of State implementation of the SFSF program, a number of States indicated to us that competing challenges and diminished capacity have made it difficult for them to meet the previously established deadline for some of the more challenging indicators. In recognition of this, the Department has extended the deadline for meeting the requirements of all indicators from September 30, 2011, to January 31, 2012, and has established a process for States to request a further extension to December 31, 2013, of the deadline for the more challenging indicators (b)(1), (c)(11), and (c)(12). We believe that any benefits that might be derived from requiring a justification for this extension would not outweigh the additional burden placed on States to do so.

Changes: None. Postsecondary Student Enrollment Data (Indicator (c)(11)).

Comment: One commenter expressed concern about the expense associated with a State having to enter into multiple data-sharing agreements with IHEs to collect postsecondary student enrollment data. The commenter recommended that the Department consider extending its role to that of a broker of data-sharing agreements between public higher education consortia and other entities such as third-party companies and States. Alternatively, the commenter recommended that the Department eliminate the requirement that States collect enrollment data on high school graduates who attend private or out-of-state IHEs.

Discussion: The Department believes that because differences in State statutory and regulatory requirements could affect the nature and scope of data-sharing agreements between States and IHEs, it is appropriate that decisions regarding these matters be addressed at the State rather than the Federal level. The Department acknowledges that collecting enrollment data on high school graduates who attend private and out-of-state IHEs can be challenging and, therefore, is providing States with an alternative standard for meeting the requirements of Indicator (c)(11) for such students. However, we are not eliminating this data collection requirement because we believe that these data, together with the course completion data under Indicator (c)(12), provide stakeholders with critical information on the effectiveness of secondary education across States.

Changes: None.

Comment: One commenter requested that the Department clarify whether the alternative standard for collecting and publicly reporting data under Indicator (c)(11) applies to in-state and out-of-state private IHEs and out-of-state public IHEs. The same commenter inquired whether a State could propose an alternative standard or whether a State would only be permitted to use the standard established by the Department.

Discussion: The alternative standard, which was defined in the NPR, applies to in-state private IHEs, out-of-state private IHEs, and out-of-state public IHEs. To help ensure that all States are developing the capacity to collect and publicly report similar data, the Department has established an alternative standard that will be applied across all States. Thus a State may not propose its own alternative standard for complying with the requirements of Indicator (c)(11).

Changes: The Department has modified the alternative standard language to expressly state that the State must increase its capacity to collect and publicly report student enrollment data on high school graduates who attend in-state private IHEs, out-of-state private IHEs, and out-of-state public IHEs.

Comment: One commenter requested clarification on the requirements for the data analysis that a State must conduct regarding current capacity for reporting on students enrolled in private or out-of-state public IHEs in order to receive approval to use the Indicator (c)(11) alternative standard.

Discussion: In demonstrating that it has increased its capacity to collect and publicly report on student enrollment data for high school graduates who enroll in private or out-of-state IHEs, a

State could, among other things, enter into data reciprocity agreements with contiguous States or States with which it has tuition reciprocity agreements.

Changes: None.

Comment: One commenter questioned the relevance of the information that a State seeking to use the alternative standard would have to submit by December 31, 2012, to demonstrate that it had increased its capacity to report on the enrollment of high school graduates in private and out-of-state IHEs. That commenter also questioned the need to impose additional burden on States before providing additional flexibility and the Department's authority to collect the data under the alternative standard. The commenter recommended that the Department further extend the January 31, 2012, deadline by which States must report student enrollment data under Indicator (c)(11) without submitting additional information.

Discussion: The Department believes that whether a State funds or enters into a data-sharing agreement with a private or out-of-state public IHE is relevant. A State is more likely to fund or enter into data-sharing agreements with those IHEs that enroll relatively large numbers of that State's residents. Further, the Department believes that the burden of meeting the requirements under the alternative standard will be minimal.

The Department has the authority to impose reasonable conditions on States in exchange for providing them with additional flexibility in meeting programmatic requirements. Because in certain instances the deadline for States to comply with the requirements of Indicator (c)(11) may be extended 27 months beyond the initial September 30, 2011, deadline, the Department believes that it is essential to collect the additional information required under the extension request. Use of the alternative standard is voluntary. Only if a State chooses to take advantage of the additional flexibility afforded under the alternative standard does it have to provide this information.

Changes: None.

Comment: One commenter recommended that the Department require States requesting authority to use the Indicator (c)(11) alternative standard to indicate in their requests whether they have regulatory or other authority over in-state private IHEs.

Discussion: Under the requirements for requesting use of the Indicator (c)(11) alternative standard, States must indicate for each in-state private IHE whether that IHE receives funding from the State. The Department believes this information, together with information on whether the State has a data-sharing agreement with these IHEs, provides sufficient indication of whether a State has authority over in-state private IHEs.

Changes: None

Comment: One commenter suggested that the Department require States to provide the percentage of their high school graduates who enroll in an in-state IHE to ''help provide transparency around the extent of the challenge States face in tracking their students out-of-state.''

Discussion: Under Indicator (c)(11), a State must demonstrate that it has the capacity to collect and publicly report student enrollment data for high school graduates who enroll in in-state private, out-of-state private, and out-of-state public IHEs; however, a State is not required to actually collect and publicly report those data. Thus, it would impose a burdensome new requirement on States to require them to report by December 31, 2013, on the percentage of students who enroll in in-state IHEs.

Changes: None.

Postsecondary Course Completion Data

Comment: One commenter requested that the Department clarify for Indicator (c)(12) the following: (1) The categories of students for which a State should provide course completion data (degree-seeking or all students enrolled for credit; part-time and full-time students; students who remain enrolled in the same public IHE; and students who transfer to another public IHE); and (2) the starting point for calculating credits earned within ''two years of enrollment'' in Indicator (c)(12).

Discussion: States must have the capacity to report course completion data for those high school graduates who enroll for credit in a public IHE on a full-time or part-time basis within 16 months of their high school graduation. In determining whether a student has completed one year's worth of college credit applicable to a degree, as defined by the IHE, within two years of enrollment in an in-state public IHE, the State should consider the credits that the student earned at any in-state public IHE within two years of the date that the student initially enrolled in an in-state public IHE (as long as that initial enrollment was within 16 months of the student's high school graduation).

Changes: None.

Plan Requirements

Comment: One commenter asked the Department to clarify whether a Governor had to sign the revised plans that a State must submit to receive a further extension of the deadline for an indicator.

Discussion: In the request for an extension, the Governor and Chief State School Officer must sign an assurance that the State will submit a revised plan for Indicator (b)(1), (c)(11), or (c)(12), as applicable. The Governor and Chief are not required to sign the plan itself.

Changes: None.

Comment: One commenter inquired whether a State may use a plan adopted for other programs to meet the revised plan requirement for Indicators (b)(1), (c)(11), or (c)(12), as applicable.

Discussion: A State may use a plan adopted for another program so long as that plan meets the requirements established in this notice, including the requirement that the State meet the December 31, 2013, deadline.

Changes: None.

Comment: One commenter suggested that the Department make publicly available any revised plans submitted for Indicators (b)(1), (c)(11), and (c)(12).

Discussion: The Department will make the revised plans available on its Web site and encourages States to make them available on their Web sites as well.

Changes: None.

Priority

Comment: One commenter suggested the Department provide in future grant competitions a priority not only for States that meet the requirements of Indicator (b)(1) but also for States that meet the requirements of Indicators (c)(11) and (c)(12) by the applicable deadline.

Discussion: Although the Department recognizes the importance of a State being able to collect and publicly report the data required under Indicators (c)(11) and (c)(12), it wants to encourage States to focus on developing and implementing an SLDS that includes all of the elements required under the America COMPETES Act and, as a result, meets all of the requirements of Indicator (b)(1). The Department, therefore, is giving priority to those States that develop and implement an SLDS in a timely manner. We also note that if a State has developed and is implementing an SLDS that meets the statutory requirements, this will enable the State to comply with the requirements of Indicators (c)(11) and (c)(12).

Changes: None.

Revisions to Reporting Requirements:

Exemption From Reporting Requirements for Descriptors (a)(1) and (a)(2) and Indicators (a)(3) Through (a)(7)

A State that has an approved ESEA Flexibility request is exempt from the

collection and public reporting requirements under SFSF Descriptors (a)(1) and (a)(2) and Indicators (a)(3) through (a)(7).

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

The Department requires each State to collect and publicly report, at least once, the data and other information required by Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6). Any State that has already collected and publicly reported these data is not required to take any additional action for these indicators. Any State that has not already provided data under these indicators must do so by the January 31, 2012, deadline.

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

The Department extends to December 31, 2013, upon submission of an approvable request by a State, the deadline for the development and implementation of an SLDS under Indicator (b)(1) that includes the 12 elements included in the America COMPETES Act. The Department also extends to December 31, 2013, 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 required course completion data under Indicator (c)(12).

An extension request must provide the specific information described under the heading *Requirements for Requests for Extensions to December 31, 2013, of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard.*

Revisions to Requirements Under Indicator (c)(11)

The Department extends to December 31, 2013, 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.

An extension request must provide the specific information under the heading *Requirements for Requests for Extensions to December 31, 2013, of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard.*

The Department also establishes 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 in-state private, out-of-state private, or out-of-state public IHEs. Under the alternative standard, a State must increase, by December 31, 2013, its current capacity to collect and publicly report the required student enrollment data for high school graduates who attend an in-state private IHE, an out-of-state private IHE, or an out-of-state public IHE. A State will not be required to be fully capable of collecting and reporting these data by December 31, 2013.

For the purposes of the alternative standard, a State will 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 in-state private IHEs, out-of-state private IHEs, 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.

States that use the alternative standard for Indicator (c)(11) are required to publicly report, by December 31, 2013, 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.

An extension request must include the specific information described under the heading *Requirements for Requests for Extensions to December 31, 2013, of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard.*

Requirements for Requests for Extensions to December 31, 2013, of Deadlines for Indicator (b)(1), (c)(11), or (c)(12) or Use of the Indicator (c)(11) Alternative Standard

Any request for an extension to December 31, 2013, 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 and signed by both the Governor and the Chief State School Officer. Further, an extension request or a request to use the alternative standard must be submitted by February 17, 2012, unless the Department permits a State to submit a request at a later date. The additional requirements for these requests are as follows:

A. Indicator (b)(1) Extension Requests

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

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

(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, 2013, 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

To receive 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, a State must provide the following information:

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

(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, 2013, 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, 2013; 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, 2013; or

(B) Develop the capacity to collect and publicly report those data by December 31, 2013.

C. Indicator (c)(12) Extension Requests

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.

(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, 2013, course completion data required Indicator (c)(12) for high school graduates who attend an in-state public IHE; or

(B) Develop the capacity to collect and publicly report, by December 31, 2013, 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, 2013.

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

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.

(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, 2013, student enrollment data for high school graduates who enroll in in-state private, out-of-state private, or out-of-state public IHEs; or

(B) Increase its current capacity to collect and publicly report such data by December 31, 2013, 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, 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, 2013.

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

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, 2013, 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.

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

Final Priority:

This notice contains one priority.

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

Priority: The Secretary gives priority to 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)).

Authority To Take Enforcement Action Against SEAs

If a State receives an extension of a deadline to December 31, 2013, or the authority to use the alternative standard for Indicator (c)(11) but fails to meet the extended deadline or alternative standard, the Department may take enforcement actions against the SEA, including designation as high risk. In such instances, the Department may also elect not to award funds in a future discretionary grant competition to the SEA.

The Department will take into account the specific circumstances of the grantee and the severity of the non-compliance.

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 Orders 12866 and 13563:

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 subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''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 a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed these regulations under Executive Order

13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final revisions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these final revisions are consistent with the principles in Executive Order 13563.

We have also determined that this regulatory action will not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. 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 action.

Need for Federal Regulatory Action:

The revisions in this notice are the result of a regulatory review [1] 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 revisions 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 revisions also modify requirements that have been identified by certain States as not 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 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 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 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 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 alternative standard for collecting and publicly reporting student enrollment data for high school graduates who attend private and out-of-state public IHEs better addresses the capacity concerns raised by States.

Summary of Costs and Benefits:

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 revisions to those requirements in this notice and determined that they impose no net additional costs to States, LEAs, or IHEs.

On the contrary, the revisions will produce potential net cost savings.[2] For instance, the exemption for certain States from the reporting requirements under Descriptors (a)(1) and (a)(2) and Indicators (a)(3) through (a)(7) and the elimination of the annual reporting requirements for Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6) confer savings by reducing collection and reporting burden on States and LEAs. Although it confers some new cost (as discussed in more detail later in this section), the Indicator (c)(11) alternative standard confers net savings to States using the standard (and to affected LEAs and IHEs) by no longer

[1] 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.''

[2] 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.

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 extensions of the compliance deadlines for Indicators (b)(1), (c)(11), and (c)(12) will 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 will be able to spread the compliance costs over a longer period of time.

Apart from potential cost savings, the benefits of the 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 that are consistent with the statutorily required assurances.

States using the Indicator (c)(11) alternative standard will incur minimal new costs. Under the standard, a State must publicly report, by December 31, 2013, 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 has 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 will 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 Indicator (c)(11) alternative standard reporting requirements is accordingly $51,600 ($1,200 times 43 States).

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

The costs for complying with these requirements will, 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 will 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 must 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 is minimal. We estimate that a State will 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 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 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 must 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 plan revision requirements should also be minimal. We estimate that a State will 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.[3] At $240 per revision, the total estimated cost to States for complying with the plan revision requirements is $41,520 ($240 per revision times 173 requests).

The total estimated cost for complying with the 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 Indicator (b)(1), (c)(11), or (c)(12) will need to report the information and data 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 will 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 will 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 includes reporting only 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

[3] 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.

$51,600 ($1,200 per State times 43 States).

The 13,409 LEAs located in those 43 States will 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,[4] and based on the assumption that LEAs can 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 will require 6.31 hours to provide this information. This is a reduction from the average hours per response in the November 2009 Notice because the current estimate relates only to students who attend in-state, public IHEs rather than to 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 can provide this information at a rate of 20 students per hour, we estimate that a total of 84,584 hours will be required for the 1,676 IHEs in the 43 affected States to respond to this requirement. On average, each IHE will need 50.47 hours to collect and report the information associated with Indicator (c)(11). This is 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. Because 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 than 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 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 thus $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 will 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 must 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 can 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 will 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 Indicators (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 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. The 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 will be required to submit data, small IHEs will require significantly less effort to adhere to these requirements

[4] 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*. 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*. 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.

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.

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 revisions contains information collection requirements previously approved under OMB control number 1810–0695.

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.

Revisions to SFSF Indicator (c)(11) Requirements:

Under the Indicator (c)(11) alternative standard, a State must publicly report, by December 31, 2013, 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 will 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 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.

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 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 will 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 must 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 should be minimal. We estimate that a State will 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 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. The total estimated hours for States to comply with the 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 will 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 will 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.[5] At eight hours per revision, the total estimated burden to States for complying with the 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 requirements for requests and for plan revisions is accordingly 2,768 hours.

After requesting an extension and providing a plan, a State must collect and report the information associated with Indicators (b)(1), (c)(11), and (c)(12) by December 31, 2013. 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 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 will 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 will 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 will 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,[6] and based on the assumption that LEAs can 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). Divided by the total number of affected LEAs, we estimate that each LEA will require 6.31 hours to provide this information. This will 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 will be required for the 1,676 IHEs in the 43 affected States to respond to this requirement. On average, each IHE will need 50.47 hours to provide the information associated with Indicator (c)(11). This is 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 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 must 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 can 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 this total number of hours by the 1,555 public IHEs in the 47 States, we estimate that, on average, an IHE will need 36.68 hours to collect and report the

[5] 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.

[6] 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.* 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.* 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.

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 thus 57,983.

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

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

COLLECTION OF INFORMATION

Information collection	OMB Control number and estimated change in burden.
This notice of revisions establishes an extension for collecting and reporting information associated with Indicators (b)(1), (c)(11), and (c)(12); an alternative standard for Indicator (c)(11); establishes requirements for requests for extensions of deadlines for Indicators (b)(1), (c)(11), and (c)(12); and establishes requirements for revised plans for Indicators (b)(1), (c)(11), and (c)(12).	OMB 1810–0695. The burden will increase by 233,399 hours.

Assessment of Educational Impact: In the NPR and in accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, we requested comments on whether the proposed requirements would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPR and on our review, we have determined that these final requirements do not 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 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: *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: *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: January 26, 2012.

Arne Duncan,

Secretary of Education.

[FR Doc. 2012–2125 Filed 1–30–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Subtitle B, Chapter II

[Docket ID ED–2011–OS–0010]

RIN 1894–AA03

State Fiscal Stabilization Fund Program

AGENCY: Department of Education.

ACTION: Notice of final requirement.

SUMMARY: The Secretary of Education (Secretary) is adopting as a final requirement, without change, the interim final requirement for the State Fiscal Stabilization Fund (SFSF) program that extended to January 31, 2012, the deadline by which States must collect and publicly report data and other information on various SFSF indicators and descriptors.

DATES: This final requirement is effective January 31, 2012.

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 email: *State.Fiscal.Fund@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:

Background

On September 23, 2011, the Secretary published in the **Federal Register** (76 FR 59036) an interim final requirement extending, to January 31, 2012, the deadline for collecting and publicly reporting data and other information on various SFSF indicators and descriptors. The interim final requirement became effective on the date of its publication in the **Federal Register.** At the time the interim final requirement was published, the Secretary requested public comment on whether an extension of the SFSF deadline to January 31, 2012, was warranted.

As explained in the Summary section of the interim final requirement, the Secretary extended the deadline in response to the many challenges and competing priorities that States were facing in meeting the SFSF data collection and reporting requirements by the original September 30, 2011, deadline.

There are no differences between the interim final requirement and this final requirement.