

U.S. Department of Education withdraws proposed Section 117 foreign gift and contract information collection request; plans to issue new request for public comment

7 February 2020

On 4 February 2020, the Office of Management and Budget (OMB) [announced](#) that OMB and the U.S. Department of Education (ED) have decided to withdraw the emergency information collection request that ED had submitted to OCR on 16 December 2019 (December 2019 ICR). The December 2019 ICR relates to Section 117 of the Higher Education Act, which requires an “institution” to file a disclosure report with ED when it “receives a gift from” or “enters into a contract with” a “foreign source” that is valued at US\$250,000 or more, either alone or in combination with other gifts and contracts with the same foreign source in the same calendar year. See [20 U.S.C. §1011f](#). Our 30 December 2019 [advisory](#) describes the December 2019 ICR and related ED commentary.

The Notice contains four key points:

- The December 2019 ICR is withdrawn. OMB and ED determined that withdrawal is “the best course of action.”
- “[I]n short order,” ED will resubmit a Section 117 ICR under a non-emergency Paperwork Reduction Act (PRA) review process. ED will provide notice in the Federal Register and will provide a 30-day public comment period. ED had sought to have OMB conduct an emergency PRA review of the December 2019 ICR. With an emergency review, the public comment period is shorter than the 30-day standard review process. The public will now have 30 days to comment on the new ICR after it is issued.
- ED will “address concerns raised by OMB” when it resubmits the Section 117 ICR to OMB for non-emergency review.
- ED will initiate a rulemaking to address its desire to collect “true copies” of foreign gifts and contracts. The December 2019 ICR had proposed to require institutions to submit “true copies” of foreign gifts and contracts.

We are available to answer questions.

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