

aggregate amount that is more than the sum of:

(1) The purchase price paid to the Plan for the Securities by BNY Mellon; and

(2) the income (interest or dividends, as applicable) due on the Securities from and after the date BNY Mellon purchased the Securities from the Plan, at the rate specified in the respective offering documents for the Securities or determined pursuant to a successful auction with respect to the Securities, BNY Mellon will refund such excess amount promptly to the Plan (after deducting all reasonable expenses incurred in connection with the recovery);

(k) Neither BNYMC nor any affiliate exercises investment discretion or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to the decision to accept the written offer or retain the Security;

(l) BNY Mellon maintains, or causes to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the person described below in paragraph (m)(i), to determine whether the conditions of this exemption have been met, except that—

(i) No party in interest with respect to a Plan which engages in the covered transactions, other than BNY Mellon, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by paragraph (m)(i);

(ii) A separate prohibited transaction shall not be considered to have occurred solely because due to circumstances beyond the control of BNY Mellon, such records are lost or destroyed prior to the end of the six-year period.

(m)(i) Except as provided, below, in paragraph (m)(ii), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in paragraph (l) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission; or

(B) Any fiduciary of any Plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(C) Any employer of participants and beneficiaries and any employee organization whose members are

covered by a Plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(D) Any participant or beneficiary of a Plan that engages in a covered transaction, or duly authorized employee or representative of such participant or beneficiary;

(ii) None of the persons described, above, in paragraph (m)(i)(B)–(D) shall be authorized to examine trade secrets of BNY Mellon, or commercial or financial information which is privileged or confidential; and

(iii) Should BNY Mellon refuse to disclose information on the basis that such information is exempt from disclosure, BNY Mellon shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section II. Definitions

(a) The term “affiliate” means any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(b) The term “Auction Rate Security” or “Security” means a security:

(1) That is either a debt instrument (generally with a long-term nominal maturity) or preferred stock; and

(2) with an interest rate or dividend that is reset at specific intervals through a “Dutch auction” process;

(c) The term “Independent” means a person who is not BNYMC or an affiliate (as defined in Section II(a)); and

(d) The term “Plan” means any plan described in section 3(3) of the Act and/or section 4975(e)(1) of the Code.

For a more complete statement of the facts and representations supporting the Department’s decision to grant this exemption, refer to the notice of proposed exemption published on May 6, 2009 at 74 FR 20987.

DATES: Effective Date: This exemption is effective from October 3, 2008 through December 31, 2008.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or

disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 16th day of July, 2009.

Ivan Strasfeld,

*Director of Exemption Determinations,
Employee Benefits Security Administration,
U.S. Department of Labor.*

[FR Doc. E9–17468 Filed 7–23–09; 8:45 am]

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NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 74 FR 24043, and one comment was received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: <http://www.reginfo.gov/public/do/PRAMain>.

Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to splimpto@nsf.gov. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703-292-7556.

FOR FURTHER INFORMATION CONTACT:

Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to splimpto@nsf.gov.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Comment: On May 22, 2009, we published in the **Federal Register** (74 FR 24043) a 60-day notice of our intent to request reinstatement of this information collection authority from OMB. In that notice, we solicited public comments for 60 days ending July 21, 2009. One comment came from B. Sachau of Florham Park, NJ, via e-mail on May 22, 2009, who objected to this information collection.

Response: (Some background on the program to clarify the survey request is provided.) The Alliances for Broadening Participation in STEM (ABP) includes three programs: the Louis Stokes Alliances for Minority Participation (LSAMP) program; the Bridge to the Doctorate (LSAMP-BD) Activity; and the Alliances for Graduate Education and the Professoriate (AGEP) program.

This portfolio of programs seeks to increase the number of students successfully completing quality degree programs in science, technology, engineering and mathematics (STEM). Particular emphasis is placed on transforming STEM education through innovative academic strategies and experiences in support of groups that historically have been underrepresented in STEM disciplines: African-Americans, Alaskan Natives, Native Americans, Hispanic Americans, and Native Pacific Islanders.

Managed synergistically, the ABP cluster enables seamless transitions from the STEM baccalaureate to attainment of the doctorate and entry to the STEM professoriate. ABP support begins at the baccalaureate level through the LSAMP program. LSAMP emphasizes development of broad based regional and national alliances of academic institutions, school districts, State and local governments, and the private sector to increase the diversity and quality of the STEM workforce. Eligible LSAMP undergraduate students may receive continued support for up to two additional years of STEM graduate study through the Bridge to the Doctorate (BD) Activity. The Bridge to the Doctorate provides significant financial support for matriculating candidates in STEM graduate programs at eligible alliance sites.

Alliances for Graduate Education and the Professoriate (AGEP) furthers the graduate education of underrepresented STEM students through the doctorate level, preparing them for fulfilling opportunities and productive careers as STEM faculty and research professionals. AGEP also supports the transformation of institutional culture to attract and retain STEM doctoral students into the professorate. Further information may be found via the AGEP Web page: <http://www.agep.us/index.asp#maincontent>.

NSF believes that because the comment does not contain suggestions for altering the collection of information for which NSF is seeking OMB approval, NSF is proceeding with the clearance request.

Title of Collection: National Evaluation of the Alliances for Graduate

Education and the Professoriate Faculty and Student Surveys.

OMB Control No.: 3145-NEW.

Abstract: The Division of Human Resource Development (EHR/HRD) of the National Science Foundation has requested impact information on the Alliances for Graduate Education and the Professoriate (AGEP) Program. Funded by NSF, the AGEP Program has funded 28 alliances of colleges and universities to promote the participation of underrepresented minority groups in PhD programs in the fields of science, technology, engineering, and mathematics (STEM). The ultimate goal of the program is to increase the number of underrepresented minorities in these fields who enter the professoriate. NSF now seeks follow-up information on program participants—that is, students and faculty—to determine what impact the program has had on graduate students' decisions to enroll in and graduate from STEM doctoral programs and enter the professoriate. NSF proposes a one-time on-line survey of STEM graduate students currently enrolled in STEM doctoral programs and faculty members at universities taking part in AGEP.

Estimate of Burden: The Foundation estimates that, on average, 30 minutes per respondent will be required to complete the surveys, for a total of 8,250 hours for all respondents. Respondents from the 104 institutions that received NSF AGEP support will be asked to complete this survey once.

Respondents: STEM faculty at AGEP institutions and STEM graduate students at AGEP institutions.

Estimate total number of responses: 16,500.

Estimated Total Annual Burden on Respondents: 8,250 hours.

Dated: July 21, 2009.

Suzanne H. Plimpton,
Reports Clearance Officer,
National Science Foundation.

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NUCLEAR REGULATORY COMMISSION

[NRC-2009-0323]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG-3038.