

HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM  
REGULATIONS - 42 CFR PART 60  
SUPPORTING STATEMENT

A. Justification

I. Circumstances of Information Collection

This is a request for an extension and revision of OMB approval of the Health Education Assistance Loan (HEAL) Program regulatory requirements for reporting, recordkeeping, and notification currently approved under OMB No. 0915-0108, which expires January 31, 2007.

The authority for the administration of the HEAL program is contained in Title VII (sections 701-720) of the Public Health Service (PHS) Act (42 USC 292-292o). The HEAL program provided federally insured loans to students in schools of allopathic medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, allied health, or chiropractic, and graduate students in health administration or clinical psychology through September 30, 1998. Lenders such as banks, savings and loan associations, credit unions, pension funds, State agencies, HEAL schools, and insurance companies made HEAL loans which were insured by the Federal Government against loss due to borrowers' death, disability, bankruptcy, and default. The basic purpose of the program was to assure the availability of funds for loans to eligible students who needed to borrow money to pay for their educational costs.

Section 715 of the Public Health Service (PHS) Act states that: "The Secretary is authorized to prescribe such regulations as may be necessary to provide for... the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart;.... The Secretary shall require an eligible institution to record, and make available to the lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart."

HRSA is requesting continued approval for the recordkeeping and notification requirements associated with the HEAL program regulations. There are no changes to the recordkeeping and notification requirements associated with the HEAL regulations. While the regulatory requirements are approved under 0915-0108, the majority of the reporting burden associated with the regulations is cleared under other OMB numbers for HEAL forms/electronic submissions used to report required information. These cleared requirements are provided in a separate attachment showing the OMB control number associated with each regulatory citation.

The information collection requirements in the HEAL program regulations are specified below:

## Code of Federal Regulations Title 42, Parts 1 - 399

### *Subpart B: The Borrower*

42 CFR 60.7(a)(2), Recordkeeping - The school and the lender or holder must maintain the signed statement attesting that the applicant has been notified of the actions the Federal Government can take in the event that the student fails to meet the scheduled payments.

42 CFR 60.7(c)(2) Recordkeeping - The lender or holder will maintain as part of the non-student borrower's official file the signed certification outlining the Federal Government debt collection procedures. (Note: there are no non-student borrowers.)

42 CFR 60.8(a)(5) Notification - If the loan is sold from one lender or holder to another lender or holder, or if the loan is serviced by a party other than the lender or holder, the buyer must notify the borrower within 30 days of the transaction.

42 CFR 60.8(b)(3) Notification - The borrower must immediately notify the lender or holder in writing if the borrower's name, address, or status changes.

### *Subpart C: The Loan/Lender*

42 CFR 60.21(b)(2) Notification - The current holder must provide the borrower with a written notice of the refund payment.

### *Subpart D: The Lender*

42 CFR 60.31(c) Recordkeeping - A HEAL lender or holder must maintain written procedures for the servicing and collecting of HEAL loans.

42 CFR 60.33(e) Recordkeeping - Each loan must be evidenced by a promissory note approved by the Secretary.

42 CFR 60.34(b)(2) Recordkeeping - Requires that the terms of the repayment are established in a written schedule that is made a part of the borrower's original HEAL note.

42 CFR 60.34(c) Notification - The lender or holder must notify the borrower every 6 months from the date the loan is disbursed regarding the amount owed by the borrower on the loan.

42 CFR 60.35(a)(1) Notification - When a borrower is delinquent in making a payment, the lender or holder must remind the borrower within 15 days of the date the payment was due of the obligation to repay by means of a written contact and that if payments on the loan do not resume after the 15-day notice described above, the lender or holder must contact the borrower and any endorser at least 3 more times at regular intervals during the 120-day delinquent period following the first missed payment of that 120-day period and each of these contacts must be in writing.

42 CFR 60.35(a)(1) Recordkeeping - Requires that a record be made of each attempt to contact and each successful contact, and that record then placed in the borrower's file.

42 CFR 60.35(a)(2) Recordkeeping - The lender or holder must document all skip tracing activities and the documentation must consist of a written record of the action taken and its date.

42 CFR 60.35(c)(2) Notification - The lender or holder must immediately notify an appropriate consumer credit reporting agency regarding accounts overdue by more than 60 days.

42 CFR 60.35(e) Notification - If the lender or holder does not sue the borrower, it must send a final demand letter to the borrower and any endorser at least 30 days before a default claim is filed.

42 CFR 60.37(a) Notification - The lender or holder will notify each borrower of the right to request forbearance.

42 CFR 60.37(a)(1) Recordkeeping - Any circumstance which affects the borrower's ability to repay the loan must be fully documented.

42 CFR 60.37(c) Recordkeeping - Any subsequent renewals of forbearance must be documented.

42 CFR 60.37(c)(1) Recordkeeping - The lender or holder who reasonably believes that the borrower intends to repay the loan but is currently unable to do so must state the basis for its belief in writing and maintain that statement in the borrower's loan file.

42 CFR 60.37(c)(3) Notification - If the forbearance agreement provides for deferment of all payments, the lender or holder must contact the borrower at least every 3 months to remind the borrower of the outstanding obligation to repay.

42 CFR 60.38(a) Notification - Within 30 days of the assignment of the HEAL loan from one lender or holder to another, the buyer must notify the borrower and the borrower's school.

42 CFR 60.40(a) Recordkeeping - The documentation for all claims must include at least the original promissory note, an assignment of the note to the United States, the loan application, the history of the loan activities, and a Borrower Status Form, if appropriate. \* (see § 60.42(a)(1))

42 CFR 60.40(c)(1)(iv) Reporting - If the lender or holder files a default claim on a loan and subsequently receives written notice from the court or the borrower's attorney that the borrower has filed for bankruptcy, the lender or holder must file that notice to the Secretary within 10 days of the lender or holder's initial date of receipt. If the borrower is declaring bankruptcy and has not filed a complaint to determine the discharge ability of the loan, the lender or holder must file the written notice with the Secretary within 30 days of the lender's or holder's initial date of receipt.

42 CFR 60.40(c)(1)(iv) Notification - If the Secretary has not paid the default claim at the time the lender or holder receives the notice, upon receipt of that notice, the lender or holder must file with the bankruptcy court a proof of claim and an objection to the discharge or compromise of the HEAL loan. If the Secretary has paid the default claim, the lender or holder must file a statement with the court notifying it that the loan is owned by the Secretary.

42 CFR 60.40(c)(4) Notification - The lender or holder must file with the bankruptcy court a proof of claim and an objection to the discharge or compromise of the HEAL loan, and in addition to the documentation required for all claims, the lender or holder must submit to the Secretary the repayment schedule(s), a collection history, a proof of claim, an assignment to the United States of America of its proof of claim, all pertinent documents sent to or received from the bankruptcy court, a statement of any facts of which the lender is aware that may form the basis for an objection to the bankrupt's discharge or an exception to the discharge, the notice of first meeting of creditors or an explanation as to why this is not included, and in cases where there is defective service a declaration or affidavit attesting to the fact that the lender or holder was not directly served with the notice of meeting of creditors, and in cases where there is defective service due to the borrower's failure to list the proper creditor, a copy of the letter sent to the borrower at the time of purchase of the HEAL loan by the current holder or a sample letter with documentation indicating when the letter was sent to the borrower.

42 CFR 60.42(a)(1) Recordkeeping - The lender or holder must keep complete and accurate records of each HEAL loan it holds which must be easily retrievable.

42 CFR 60.42(a)(2) Recordkeeping - The lender or holder must maintain for each borrower a payment history, a collection history, and any additional records which are necessary to make any reports required by the Secretary.

42 CFR 60.42(d) Reporting - The lender and holder must comply with the Department's biennial audit requirements of section 798 of the Act.

42 CFR 60.42(e) Reporting - Any lender or holder who has information which indicates potential or actual commission of fraud or other Federal offenses, involving these loan funds, must promptly provide this information to the appropriate Regional Office of the Inspector General for Investigations.

42 CFR 60.43(b) Reporting - Administrative hearing reporting requirement: Requires that any lender or holder subject to termination which would like to receive a hearing prior to termination must submit to the Secretary a request for a hearing and a statement of material factual issues in dispute.

#### *Subpart E: The School*

42 CFR 60.51(f)(1) Recordkeeping - The school must maintain in the borrower's record documentation to support the basis for any adjustments to the need analysis information.

42 CFR 60.51(f)(2) Recordkeeping - The school must maintain in the borrower's record documentation to support the basis for any adjustments to the standard student budget.

42 CFR 60.53 Notification - The school must notify the holder of a HEAL loan of any change in the student's enrollment status within 30 days following the change in status, and if the current holder is unknown, the school must notify the HEAL Program Office.

42 CFR 60.54 Notification - The school must provide to the borrower written notification that it is paying a portion of a refund that is allocable to a HEAL loan directly to the original lender.

42 CFR 60.56(a) Recordkeeping - The school must maintain easily retrievable records of HEAL borrowers.

42 CFR 60.56(b) Recordkeeping - The school must maintain the record for not less than 5 years following the date the student graduates, withdraws or fails to enroll as a full-time student and may store the records in microform or computer format.

42 CFR 60.56(c) Reporting - The school must comply with the Department's biennial audit requirements of section 798 of the Act.

42 CFR 60.57 Recordkeeping - The school must retain a copy of each report for not less than 5 years following the report's completion, unless otherwise directed by the Secretary.

42 CFR 60.57 Notification - A school must make available to a HEAL lender or holder, upon the lender's or holder's request, the name, address, expected postgraduate destination and other reasonable identifying information for each of the school's students who has a HEAL loan.

42 CFR 60.60(b) Reporting - Administrative hearing reporting requirement: Requires that a school subject to termination which would like to receive a hearing prior to termination must submit to the Secretary a request for a hearing and a statement of material factual issues in dispute.

42 CFR 60.61(a)(1) Notification - The school will inform the student in the entrance interview of his or her rights and responsibilities under a HEAL loan, including the consequences for noncompliance with those responsibilities, and must gather personal information which would assist in locating the loan recipient should he or she depart from the school without receiving an exit interview.

42 CFR 60.61(a)(2) Recordkeeping - Each HEAL school will conduct and document an exit interview with each HEAL loan recipient.

42 CFR 60.61(a)(2) Notification - A copy of the documentation of the exit interview, including the personal information collected for skip tracing activities, and any other information required by the Secretary regarding the exit interview must be sent to the lender of each HEAL loan within 30 days of the exit interview.

42 CFR 60.61(a)(2) Notification - In the event the borrower departs from the school prior to the anticipated date or does not receive an exit interview, the schools must mail the exit interview information to the loan recipient within 30 days of the school's knowledge of the departure or the anticipated departure date, and must at the same time notify the lender or holder of the recipient's departure. The school must request that the loan recipient forward any required information (e.g., skip tracing information, request for deferment, etc.) to the lender or holder.

42 CFR 60.61(a)(5) Recordkeeping - The school will maintain accurate and complete records on each HEAL borrower and related school activities required by the HEAL program which shall be properly safeguarded and protected from environmental threats and unauthorized intrusion for use and theft.

42 CFR 60.61(a)(6) Recordkeeping - The school will maintain documentation of the criteria used to develop the school's standard student budgets in the school's general records, and maintain in each HEAL borrower's record a copy of the standard budget which was actually used in the determination of the maximum loan amount approvable for the student.

42 CFR 60.61(a)(7) Notification - The school will notify the lender or its assignee of any changes in the student's name, address, status, or other information pertinent to the HEAL loan not more than 30 days after receiving information indicating such a change.

42 CFR 60.61(b) Reporting - Any school who has information which indicates potential or actual commission of fraud or other offenses against the United States involving these funds must promptly provide this information to the appropriate Regional Office of the Inspector General for Investigations.

42 CFR 60.61(d) Reporting - Schools must supply court documentation of HEAL borrower bankruptcy filing to the Secretary upon request.

42 CFR 60.61(d) Notification - Defaulted HEAL borrowers must provide to the school court documentation of bankruptcy filing upon request.

42 CFR 60.61(d) Notification - Borrowers must provide the school with documentation of satisfactory default resolution.

## 2. Purpose and Use of Information

Reporting and recordkeeping requirements require that HEAL schools and HEAL lenders maintain certain information about each borrower, such as the borrower's credit history and financial aid transcript(s), to demonstrate during Federal audits that attempts are made to identify those applicants who are likely to default on the HEAL loan and, thus, to demonstrate due diligence by school and lenders in the loan making process. Records of entrance and exit interviews are maintained to document that each borrower was informed of his or her rights and responsibilities under the HEAL loan. Standard budgets and need analyses are maintained to document that HEAL loan funds were actually needed to pay educational expenses, as required

by statute. Lenders or holders must document all skip tracing activities and submit them to the Secretary when requesting pre-claim assistance. Additionally, each lender or holder must submit a number of documents and other information each time it submits a default, death or disability claim or if the borrower files for bankruptcy. Any lenders or schools who have information which indicate potential or actual commission of fraud or other Federal offenses, involving these funds, must promptly provide this information to the appropriate Regional Office of the Inspector General for Investigations. Borrowers seeking a HEAL consolidation loan must complete the appropriate refinancing application, sign an authorization statement to release loan information to the refinancing lender, authorize the lender to check credit history and certify they have graduated or withdrawn from a HEAL school.

Authority to make new loans to student borrowers expired September 30, 1998 and authority to refinance loans expired September 30, 2004.

### 3. Use of Improved Information Technology

All reporting requirements from lenders to the HEAL program are performed electronically and all information requests that the HEAL program completes for lenders are returned on electronic media, so that reporting processes can be conducted accurately and efficiently.

### 4. Efforts to Identify Duplication

These requirements will not result in duplication since schools and lenders would not be maintaining this kind of information elsewhere.

### 5. Involvement of Small Entities

There are no small businesses or small entities involved.

### 6. Consequences If Information Collected Less Frequently

If these collections were required less frequently, lenders may have become ineligible to make refinance/consolidation loans due to soundness of the institution, borrowers might receive inaccurate inappropriate notices from the Secretary, borrowers would be less likely to understand their responsibilities, and lenders and holders may not diligently pursue collection efforts.

### 7. Consistency With the Guidelines in 5 CFR 1320.5(d)(2)

The HEAL statute allows for a repayment period of up to 33 years from the date the loan was made. As a result, borrower records and repayment records that are a part of the loan collection process must be retained for the appropriate repayment period. This is consistent with requirements under other student loan programs administered by the Bureau, and within the guidelines under 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

This notice required by 5 CFR 1320.8(d) was published in the Federal Register on November 6, 2006 (71 FR 64975) and no public comments were received.

The two servicers who service and/or hold over 90% of the outstanding HEAL loan portfolio were included in the development and review of all policy memoranda guidelines and operational procedures prior to implementation. In addition, the following representatives from two holder/servicers were contacted in August 2006 and they expressed no specific concerns regarding the HEAL requirements process, the clarity of the regulations, or the burden requirements entailed.

1. Ms. Linda Gramlich  
Director, Guarantor Compliance  
SLMA -Loan Servicing Center  
220 Lasley Avenue  
Hanover Industrial Estates  
Wilkes-Barre, PA 18706  
(570) 821-6531
  
2. Ms. Patricia Walton  
Servicing Supervisor  
American Education Services  
Pennsylvania Higher Education  
Assistance Agency  
1200 N. Seventh Street  
Harrisburg, PA 17102  
(717) 720-3218

9. Remuneration of Respondents

Respondents will not be remunerated.

10. Assurance of Confidentiality

This activity does not require additional information from individuals, although the initial loan application forms (cleared under separate OMB numbers) do request individual information. For the original forms, the Privacy Act of 1974 (5 USC 522a) requires an agency to provide a notification to individuals who supply information. The required Privacy Act notification is provided to HEAL borrowers on the original and refinancing loan application forms (approved under OMB Numbers 0915-0034, 0915-0036, and 0915-0043). Disclosure of the applicant's Social Security Number (SSN) is mandatory for participation in the HEAL program, as provided for by Section 4 of the Debt Collection Act of 1982 (26 USC 6103 note), and the borrower is



advised of this requirement. Access to these records is strictly limited to authorized users who are aware of their responsibilities under the Privacy Act and who are required to maintain Privacy Act safeguards with respect to such records. A system of records was established and is maintained for the HEAL program (system number 09-15-0044).

11. Questions of a Sensitive Nature

The HEAL regulations require that sensitive information (e.g., borrower's SSN) be submitted. Authority for the SSN request is contained in Section 4 of the Debt Collection Act of 1982 (26 USC 6103 note). Additionally, information concerning a student's financial obligations and level of indebtedness is required for the purpose of program administration.

12. Estimates of Annualized Hour Burden

The following is a summary of the reporting, notification, and recordkeeping burden associated with the information collections for the regulations listed earlier in this supporting statement.

**REPORTING REQUIREMENTS**

No. Of Respondents	Number of Transactions Per Respond.	Total Transactions	Time Per Response	Total Burden Hours	Wage Rate	Total Hour Cost
17 Holders	5	85	12 min.	17 hrs.	\$40	\$680
190 Schools	.4	76	10 min.	13 hrs.	\$40	\$520
<b>TOTAL REPORTING</b>				<b>30 HRS.</b>		<b>\$1,200</b>

**NOTIFICATION REQUIREMENTS**

No. Of Respondents	Number of Transactions Per Respond.	Total Transactions	Time Per Response	Total Burden Hours	Wage Rate	Total Hour Cost
17 Holders	7,910	134,470	10 min.	22,412	\$40	\$896,480
190 Schools	.89	169	14 min.	40	\$40	\$1,600
7,930 Borrowers	1	7,930	10 min.	1,322	\$25	\$33,050
<b>TOTAL NOTIFICATION</b>				<b>23,774 HRS.</b>		<b>\$931,130</b>

**RECORDKEEPING REQUIREMENTS**

No. Of Respondents	Number of Transactions Per Respond.	Total Transactions	Time Per Response	Total Burden Hours	Wage Rate	Total Hour Cost
17 Holders	3,568	60,656	14 min.	14,153	\$40	\$566,120
190 Schools	257	48,830	15 min.	12,208	\$40	\$488,320
<b>TOTAL RECORDKEEPING</b>				<b>26,361 HRS.</b>		<b>\$1,054,440</b>
<b>TOTAL ANNUAL BURDEN HOURS</b>				<b>50,165 HRS.</b>		

Basis for Burden Statement:

The estimate for this information collection burden is based on 17 HEAL holders in the program as of August 31, 2006; and a current cumulative total of approximately 7,930 individuals with outstanding loans requiring a variety of servicing transactions depending on loan status, i.e., student/grace period, internship/residency repayment, or delinquent. Changes were made based on a phase-down of the HEAL Program and HEAL loans being paid-in-full over time  
Combined burden associated with regulations:

Reporting burden	30 hours
Notification burden	23,774 hours
Recordkeeping burden is	<u>26,361 hours</u>
<b>TOTAL BURDEN</b>	<b>50,165 hours</b>

Basis for Hour Costs:

The total estimated annual cost for these requirements is \$1,986,770 (\$1,953,720 holders/schools cost+ \$33,050 borrowers cost = \$1,986,650).

The estimated annual cost for holders and schools for this collection of information is \$1,953,720 (48,843 total burden hours X \$40 per hour = \$1,953,720). The hourly rate for the staff person responsible for executing the kinds of activities for the collection of information is approximately \$40.

The estimated annual cost to the borrowers for this collection of information is \$33,050 (1,322 total burden hours x \$25 per hour = \$33,050). The hourly salary of \$25 is an estimate based on the average type of respondent, which may range from students still in school to people in entry level jobs to people established in their professions.

13. Estimate of Annualized Cost Burden to Respondents

There are no capital and start-up costs to the respondents. All equipment and software are maintained by the lenders for their normal business practice.

14. Estimates of Annualized Costs to the Government:

The cost to the Federal Government for this activity is estimated at \$3,598 for the following:

Processing of biennial audit reports (60.42(d) and 60.56(c))

Processing of fraud reports (60.42(e) and 60.61(b))

This is estimated to require one person year at a .05 FTE GS-12 level (\$71,965), for a total of \$3,598 for processing the reports.

15. Change in Burden

There are currently 74,918 burden hours in the OMB Inventory for 0915-0108. We are requesting a decrease of 24,753 burden hours (74,918 – 50,165) due to program adjustment. In detail, the decrease is broken out as follows:

Reporting requirements reduced from 60 hours – 30 hours = 30 hours  
Notification requirements reduced from 32,203 – 8,429 = 23,774 hours  
Recordkeeping requirements reduced from 42,655 hours – 16,294 hours = 26,361 hours

The adjustments and the affected sections of the regulations are further detailed as follows:

Holders : The number of holders participating in HEAL has decreased steadily in the last few years, because; 1) new original loans were not authorized after September 30, 1998; 2) loans are being sold from originating holders (many have terminated from the HEAL Program) to secondary markets; 3) loans are being paid off by the borrower; or 4) borrowers are refinancing out of the HEAL program. Most of the burden changes under the holder category are due to the termination of the HEAL insured refinancing activity on September 30, 2004 and reduction in the number of borrowers with outstanding HEAL loans from \$2.5 billion in FY 2003 to \$1.4 billion in FY 2006.

Schools : There is no change in the number of schools participating in this program. There are 190 schools in the program. These schools are required to keep student loan records not less than 5 years following school withdrawal or graduation.

16.  Time Schedule, Publication and Analysis Plans

There will be no statistical analysis of data or publication of information resulting from this effort.

17.  Exemption for Display of Expiration Date

No exemption is requested. There have never been any forms for the 0915-0108 requirements. All forms required under the regulations are cleared under other OMB control numbers, as referenced earlier, and all of these forms display the OMB control number and expiration date.

18.  Certifications

This fully complies with the guidelines set forth in 5 CFR 1320.9. The certifications are included in the package.