

SUPPORTING STATEMENT

Information Collections Under the Final Regulations Governing the Federal Family Education Loan Program.

A. Justification

Note: The interim final regulations are needed to implement provisions of the Higher Education Act, (HEA), as amended by the Higher Education Reconciliation Act of 2005, (HERA) as enacted on February 8, 2006. This supporting statement only provides for the new burden and cost associated with the implementation of the interim final regulations.

1. Necessity of Information Collected

The Federal Family Education Loan (FFEL) Program final regulations revise current regulations in the areas of program administration.

These interim final regulations are a result of regulatory review of the program regulations to reduce administrative burden for program participants, provide benefits to borrowers, and protect the taxpayers' interest. This request is for approval of reporting and recordkeeping requirements contained in the attached final regulations related to the administrative requirements of the FFEL program. The information collection requirements in these final regulations are necessary to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds.

FFELP: (OMB control number: 1845-0020)

Sections 682.200, 682.207, 682.209, 682.210, 682.211, 682.401, 682.402, 682.405, 682.414, and 682.604 contain information collection requirements and are currently approved by OMB. We are making the following changes to those sections:

Section 682.207 – Due diligence in disbursing a loan.

In accordance with section 428 of the HEA, §682.207 is amended. U.S. students attending an eligible foreign school may have their FFEL program funds disbursed directly to the borrower only if the foreign institution requests this disbursement method. For borrowers who are enrolled at a “home” institution within a state and are enrolled in a study-abroad program at a foreign institution, the student may request the direct disbursement of a FFEL program loan to the borrower. The requirement establishes a new information collection by the lender and the foreign school.

Section 682.401 – Basic program agreement.

In accordance with section 485C of the HEA, §682.401 formally establishes a new College Access Initiative whereby each guarantee agency must establish a plan to promote access to postsecondary education. Each guarantee agency will provide to the Secretary and the public with information on the Internet. The information will include a comprehensive listing of postsecondary opportunities, programs and publications available in the state or states served by the agency. This requirement establishes a new information collection by guarantee agencies made available to the Secretary and the public. While the overwhelming majority of the guarantee agencies currently provide this information, we estimate that for two agencies, this will be a new requirement and have estimated the burden accordingly.

Section 682.604 – Processing the borrower’s loan proceeds and counseling borrowers.

In accordance with section 428G of the HEA, §682.604 eliminates the exemption from multiple disbursement requirements for eligible foreign institutions. Lenders and guaranty agencies are now required to disburse the proceeds of a FFEL loan in two or more installments, neither of which may exceed one half of the loan. Based upon comments received from the public, this requirement will increase the burden associated with delivery of the loan proceeds.

Sections 682.102, 682.205, 682.206, 682.207, 682.208, 682.214, 682.215, 682.301, 682.305, 682.401, 682.404, 682.406, 682.409, 682.410, 682.411, 682.415, 682.417, 682.421, 682.507, 682.508, 682.511, 682.515, 682.601, 682.603, 682.604, 682.605, 682.610, 682.711, 682.712, and 682.713 contain information collection requirements and are currently approved by OMB. All non-FFEL sections sited in the final regulations contain information collection requirements and are currently approved by OMB. We are not changing these sections. We are requesting continued approval of these sections.

2. Purpose and Use of Information Collected

Federal Family Education Loan Program:

The Federal Family Education Loan Program loans are maintained by three major groups: guaranty agencies, lenders, and schools. Recordkeeping requirements are imposed to assure accountability of program participants for proper program administration and to justify the payment of funds by the federal government. Not collecting the information described would be likely to result in a loss of billions of dollars of Federal money due to waste, fraud, and abuse.

3. Consideration of Improved Information Technology

FFELP:

Guaranty agencies conduct business with the Department electronically. Schools and lenders utilize electronically the National Student Loan Data System to verify accuracy of records.

4. Efforts to Identify Duplication

A thorough review of procedures indicates that current requirements are minimal and avoid duplication. This review was done in conjunction with affected parties who have a vested interest in eliminating duplication.

5. Burden Minimization as Applied to Small Business

No small businesses are impacted by this collection.

6. Consequences of Less Frequent Data Collection

Recordkeeping requirements are imposed to assure accountability of program participants for proper program administration and less frequent collection could impair accountability of program participants.

7. Special Circumstances Governing Data Collection

The collection of this information will be conducted in a manner that is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

Under the Administrative Procedure Act (APA) (5 U.S.C.553), the Department is generally required to publish a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed regulations prior to establishing a final rule. In addition, all Department regulations for programs authorized under the title IV, HEA programs are subject to the negotiated rulemaking requirements of section 492 of the HEA. However, both the APA and the HEA provide for exemptions from these rulemaking requirements. The APA provides that an agency is not required to conduct notice and comment rulemaking when the agency for good cause finds that notice and public procedures thereon are impracticable, unnecessary or contrary to the public interest. Similarly, section 492 of the HEA provides that the secretary is not required to conduct negotiated rulemaking for title IV, HEA program if the Secretary determines that applying that requirement is impracticable, unnecessary or contrary to the public interest within the meaning of the APA. Although these regulations are subject to the APA's notice-and-comment and the HEA's negotiated rulemaking requirements, the Secretary has determined that it would be impracticable to conduct

either negotiated rulemaking or notice-and-comment rulemaking to implement the HEA as amended by the HERA for the 2006-2007 award year. Waiver of rulemaking under the impracticability exemption in the APA and HEA is warranted because it would not be possible for the Department to comply with the APA's and HEA's rulemaking mandates and execute its statutory duties under the HERA. Although the Department is adopting these regulations on an interim final basis for the 2006-2007 award year, the Department requests public comment on these regulations for the 2007-2008 award year. After consideration of public comments, the Secretary will publish final regulations for the 2007-2008 award year. Section 482 of the HEA requires that any title IV regulations that have not been published in final form by November 1 prior to the start of an award year cannot become effective until the beginning of the second award year following the November 1 date. Therefore, the Secretary has determined that although it is feasible to conduct notice-and-comment rulemaking for the 2007-2008 award year, it would be impracticable to conduct negotiated rulemaking. As discussed above, the negotiated rulemaking process can take at least 12 months, if not longer, to complete final regulations. Therefore, it would not be feasible for the Department both to conduct a negotiated rulemaking process and have amended regulations for the 2007-2008 award year in place by November 1, 2006, as would be required under section 482 of the HEA. The Secretary does intend to begin a negotiated rulemaking process later this year. This negotiated rulemaking process could further amend the regulations as appropriate for the 2008-2009 award year and subsequent years.

9. Payments or Gifts to Respondents

No payments or gifts will be provided to the respondents.

10. Assurance of Confidentiality

A Privacy Act Notice is included on the Application Form and Promissory Note. In this notice, the borrower is informed of the statutory authority for collecting the information requested. Although disclosure of the information is voluntary, the borrower is informed that in order to be considered for FFEL Program funds, the information must be provided. The information provided is used to verify the borrower's identity, to determine the borrower's eligibility to receive an FFEL Program loan and benefits, to permit the servicing of the borrower's loan(s), and to locate the borrower and collect on the loan(s) if the loan(s) become delinquent or default. A listing of the persons and entities to which the information may be disclosed and for what purposes the information may be disclosed is also included.

11. Questions of Sensitive Nature

The Department is not requesting any sensitive data.

12. Annual Hour Burden for Respondents/Recordkeepers.

FFELP:

Section 682.207

The HEA has been amended to require that U.S. students attending an eligible foreign institution may have FFEL Program funds disbursed directly to the borrower only if the institution requests this disbursement method. For borrowers enrolled at a foreign school and borrowers enrolled in a study-abroad program, the lender must verify the borrower’s enrollment at the foreign school before making a direct disbursement of FFEL funds.

The recordkeeping burden of this information collection is as follows:

There are 20,000 U.S. students attending an eligible foreign institution annually that receive title IV, HEA loans. Fifty percent of institutions will request a disbursement directly to the borrower. Additionally, there are 32,600 students enrolled in study-abroad programs receiving title IV, HEA loans while attending foreign institutions. Thirty-three percent of study abroad students will request direct disbursement to the student

Our analysis of the lender and guaranty agency processes to contact, collect, and analyze the enrollment verification data prior to disbursement will take .5 hours per respondent. The amount of time that the foreign institution of higher education will take to make a request to the lender, verify the borrower’s enrollment data, and transmit the data to the lender to be 1.0 hour. The burden hours total 31,284.

Number of U.S. Students attending Foreign Institutions		% of Institutions Requesting Disbursement Directly to the Borrower	Sub -Total
20,000	X	50%	= 10,000

Number of U.S. Students Enrolled in Study Abroad		% of Borrowers Receiving FFEL for Which the Lender Must Verify Enrollment	Sub-Total
32,600	X	33%	= 10,856

Number of Respondents	Burden per Respondent	Total Response Burden
20,856	1.5 hours	31,284 hours

The total annual cost to the respondents is \$672,813.

Cost to the Foreign Institutions:

When a foreign institution of higher education requests that a title IV loan be disbursed directly to the borrower, the foreign institution is required to make the request to the lender by e-mail or telephone. Staff time costs are at the rate paid a GS-5, level 4 or \$13.28 per hour.

		Per contact Cost	Total Cost
Number of respondents	20,856		
Number of contacts via e-mail (98%)	20,856	\$ 1.00	\$20,856
Number of contacts via telephone (2%)	417	\$10.00	\$ 4,170
Cost of staff time	31,284 hours x \$13.28 =		\$415,452
Total Cost to Foreign Institution			\$440,478

Cost to the Lender:

The lender must contact the foreign school and collect the name and phone number of the school representative, the date of the contact, as well as verify the enrollment status of the borrower prior to disbursing the Title IV loan proceeds. Staff time costs are at the rate paid a GS-5, level 4 or \$13.28 per hour.

		Per contact Cost	Total Cost
Number of respondents	20,856		
Number of contacts via e-mail (98%)	20,856	\$ 1.00	\$20,856
Number of contacts via telephone (2%)	417	\$10.00	\$ 4,170
Cost of staff time	31,284 hours x .5 hours X \$13.28 =		\$207,726
Total Cost to Foreign Institution			\$232,752

The total cost incurred is \$440,478 + \$232,752 = \$673,230.

Section 682.401

The HEA has been amended to establish a new College Access Initiative for guaranty agencies to create and carry out a plan to promote access to postsecondary education for each state. Most agencies currently offer this information already, therefore the additional burden will be relatively small. For 33 guaranty agencies who already provide information via the Internet, they will document once to the Department their plan to provide a comprehensive listing of postsecondary education opportunities available in the areas they serve. We estimate that for two agencies, the burden to both establish a plan to promote access and provide information via the Internet will be more significant.

Number of Respondents	Burden per Respondent	Total Burden per Respondent
33 GAs	X 10 hours	= 330 hours
2 GAs	X 250 hours	= 500 hours
All GAs 35		Total Burden Hours for All GAs 830 hours

There is no additional cost associated with this burden since guaranty agencies are already providing for information to its public about access to postsecondary education. The burden to the guaranty agencies will be incurred in the first year only and thereafter we expect no significant additional burden.

Section 682.604

The HEA has been amended to eliminate the exemption from multiple disbursement requirements for eligible foreign institutions. Lenders and guaranty agencies are now required to disburse the proceeds of a FFEL loan in two or more installments, neither of which may exceed one half of the loan. For direct disbursement to students rather than to the foreign institution, prior to making a disbursement, as provided in §682.207, the lender must verify the student’s enrollment at the foreign institution and maintain a record of the information collected. The regulatory change to eliminate single disbursement of FFEL loan proceeds for students attending a foreign institution who request a direct disbursement doubles the burden for the subsequent disbursement. The lender or guarantee agency will have to verify with the foreign institution that the student for whom the subsequent disbursement is intended remains eligible and perform the recordkeeping requirements.

Additionally, the cohort of students attending a foreign institution who receive a FFEL loan and do not request direct disbursement will also be required to have make multiple disbursements. There is no additional significant burden to the lender or guarantee agency for the second cohort of students, due to the fact that a lender’s normal business process is to make multiple disbursements for FFEL loans. To provide a single disbursement option actually creates additional burden for the lender. However, there is the additional burden on the foreign institution to receive and process the subsequent disbursement for the cohort of FFEL loan recipients that do not request direct disbursement.

There are 20,000 U.S. students attending an eligible foreign institution annually that receive title IV, HEA loan funds. Our analysis of lender and guaranty agency processes to contact, collect, and analyze the enrollment verification data prior to direct disbursement will take .5 hours per respondent. The amount of time that the foreign institution of higher education will take to check the borrower’s enrollment status and report it to the lender or guaranty agency will take 1 hour per respondent.

The burden associated with the initial disbursement is associated with the requirements of §682.207 for direct disbursement. There is no additional burden associated with the initial disbursement of a FFEL loan for the initial disbursement for students attending a foreign institution who do not request direct disbursement. The new burden associated with multiple disbursement of a FFEL loan for a student attending a foreign institution is as follows:

Number of U.S. Students Attending Foreign Institutions	20,000
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Number of U.S. Students Who Request Direct Disbursement	10,000
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Equals

Number of U.S. Students Who Do Not Request Direct Disbursement	10,000
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Number of Respondents Receiving a Subsequent Disbursement		Burden per Respondent	Response Burden
10,000	Direct Disbursement	1.5 hours	15,000 hours
10,000	Regular Disbursement	.5 hours	5,000 hours
<u>Total Response Burden</u>			20,000 hours

The total annual cost to the respondents is \$697,014.

Cost to the Foreign Institutions: Direct Disbursement – subsequent disbursement

When a foreign institution of higher education requests that a title IV loan be disbursed directly to the borrower, the foreign institution is required to make the request to the lender by e-mail or telephone. Staff time costs are at the rate paid a GS-5, level 4 or \$13.28 per hour.

Number of respondents	10,000	Per contact Cost	Total Cost
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Number of contacts via e-mail (98%)	9,800	\$ 1.00	\$ 9,800
Number of contacts via telephone (2%)	200	\$10.00	\$ 2,000
Cost of staff time	15,000 hours x \$13.28 =		\$199,200
Total Cost to Foreign Institution			\$211,000

Cost to the Lender:

The lender must contact the foreign school and collect the name and phone number of the school representative, the date of the contact, as well as verify the enrollment status of the borrower prior to disbursing the Title IV loan proceeds. Staff time costs are at the rate paid a GS-5, level 4 or \$13.28 per hour.

		Per contact Cost	Total Cost
Number of respondents	10,000		
Number of contacts via e-mail (98%)	9,800	\$ 1.00	\$ 9,800
Number of contacts via telephone (2%)	200	\$10.00	\$ 2,000
Cost of staff time	10,000 hours x .5 hours X \$13.28 =		\$ 66,400
Total Cost to Lender			\$ 78,200

Cost to the Foreign Institutions: Regular Disbursement – subsequent disbursement
When a foreign institution of higher education receives the subsequent title IV loan disbursement it is required to process the proceeds. Staff time costs are at the rate paid a GS-5, level 4 or \$13.28 per hour.

		Per contact Cost	Total Cost
Number of respondents	10,000		
Cost of staff time	5,000 hours x \$13.28 =		\$ 66,400
Total Cost to Foreign Institution			\$ 66,400

Cost to the Lender:

A lender's normal business process is designed to disburse title IV, FFEL loan on a multiple basis. There is no additional burden to multiply disburse the loan.

Total Cost to Foreign Institution \$211,000 + \$ 66,400 = \$277,400

The total cost incurred is \$277,400 + \$ 66,400 = \$343,800.

13. Annual Cost Burden to Respondents

There are no additional costs.

14. Estimated Annual Cost to the Federal Government

There are no additional costs to the Federal government as a result of the final regulations.

15. Reasons for Changes to Burden Hour Estimated

The implementation of the Higher Education Reconciliation Act created additional information collection burden.

16. Collection of Information with Published Results

The results of the collection of information will not be published.

17. Approval to Not Display Expiration Date

ED is not seeking this approval.

18. Exception to the Certification Statement

ED is not requesting any exceptions to the "Certification for Paperwork Reduction Act Submissions" of OMB Form 83-1.