

SUPPORTING STATEMENT

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

A. Justification

1. Necessity of Information Collected

The Federal Family Education Loan (FFEL) Program final regulations make revisions to the current regulations for program administration.

These 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 for participating institutions of higher education when Preferred Lenders Lists are used consistent with the final changes to 34 CFR 682.212 in 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: 1845-0081)

Sections 682.212 and 682.603 contain new information collection requirements that are being submitted to OMB for approval. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education is submitting a copy of these sections to the Office of Management (OMB) for its review. We are making the following changes to those sections:

Sections 682.212 and 682.603 – Preferred Lenders.

The final regulations in §682.212 would require that any school's list of recommended lenders contain at least three unaffiliated lenders to provide borrower choice. The Department expects a school to collect and retain a statement certifying to this fact, upon which the school can rely, from each of the lenders they propose to include on their list. The final regulations also require the disclosure of supporting information and data with the list is the most efficient and effective method to ensure that borrowers make informed consumer decisions. The provision of comparative interest rate and benefit information, in addition to describing the method and criteria used to select lenders for the list, will involve additional efforts for schools in preparing and providing a preferred lender list. We estimate that burden will increase by 141,625 hours for institutions of higher education. The increased burden associated with these final changes will be reflected under a new OMB Control Number 1845-0081, upon publication of the final regulation. The changes in §682.603 provide that a school must certify Stafford and PLUS loans expeditiously

regardless of the lender chosen by the borrower, that a school cannot assign a lender to a first-time borrower, and that a school may not engage in practices that deny a borrower access to FFEL loans based on the borrower's selection of a lender or guaranty agency. These final changes do not change the certification process or the data collection requirements associated with the certification process.

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 noticed 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.

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:

Sections 682.212 and 682.603 – Preferred Lender.

The final regulations in §682.212 would require that any school's list of recommended lenders contain at least three unaffiliated lenders to provide borrower choice. The Department expects a school to collect and retain a statement certifying to this fact, upon which the school can rely, from each of the lenders they propose to

include on their list. The final regulations also require the disclosure of supporting information and data with the list is the most efficient and effective method to ensure that borrowers make informed consumer decisions. The provision of comparative interest rate and benefit information, in addition to describing the method and criteria used to select lenders for the list, will involve additional efforts for schools in preparing and providing a preferred lender list. We estimate that burden will increase by 141,625 hours for institutions of higher education. The increased burden associated with these final changes will be reflected under a new OMB Control Number 1845-0081, upon publication of the final regulation. The final changes in §682.603 provide that a school must certify Stafford and PLUS loans expeditiously regardless of the lender chosen by a borrower, that a school cannot assign a lender to a first-time borrower, and that a school may not engage in practices that deny a borrower access to FFEL loans based on the borrower’s selection of a lender or guaranty agency. These final regulations do not change the certification process or the data collection requirements associated with the certification process. The final changes are intended to act as a deterrent against actions that a school may take to steer borrowers to preferred lenders or pre-select or package a lender for student and parents, or deny a borrower’s access to FFEL loans.

Projected # of Institutions with Preferred Lenders Lists:

# of institutions	5,665
projected % with Preferred Lenders Lists	<u>X .25</u>
# of institutions w/ Preferred Lenders Lists	1416.25

Burden Hours Increase:

# of hours of increased burden/affected institution	<u>X 100</u>
projected # of burden hours	141,625 hours

Affected Entities:

INSTITUTIONS:	141,625	
For-profit		46,736
Not-for-profit		46,736
Public		<u>48,153</u>
		141,625

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 collections 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.