

SUPPORTING STATEMENT

Information Collections Under the Proposed Regulations Governing the Federal Family Education Loan Program – Not-For-Profit holder.

A. Justification

1. Necessity of Information Collected

The Federal Family Education Loan (FFEL) Program notice of proposed rulemaking regulations propose revisions to the current regulations for program administration.

These proposed 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 proposed regulations related to the administrative requirements for States, not-for-profit lenders and eligible lender trustees consistent with the proposed changes to 34 CFR 682.302 in the FFEL Program. The information collection requirements in these proposed regulations are necessary to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds.

FFELP: (OMB control number: 1845-XXX2)

Section 682.302 contains new information collection requirements which is 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 this section to the Office of Management (OMB) for its review. This is a new paperwork collection.

Sections 682.302 – Eligible Not For Profit Holder.

The proposed regulations in §682.302 require a State, non-profit entity, or eligible lender trustee to provide to the Secretary a certification on the State or non-profit entity's letterhead signed by the State or non-profit's Chief Executive Officer which states the basis upon which the entity qualifies as a State or non-profit entity. The submission must include documentation establishing the entity's State or non-profit status. In addition, the submission must include the name and lender identification number for which the eligible not-for profit designation is being certified. For an entity establishing status under section 150(d) of the IRS Code, copies of the requests of the State or political subdivision or subdivisions thereof, or requirements described in section 150(d) of the Code and the CEO's additional certification that the entity has not elected to cease its status as a qualified scholarship funding corporation. A separately submitted certification or opinion by the State or non-profit entity's legal counsel or the office of the attorney general of the State, must be submitted with supporting documentation that shows that the State or non-profit entity is a constituted State entity by operation of specific State law, has been designated by the State or one or more political subdivisions of the State to serve as a qualified

scholarship funding corporation, and is incorporated under State law as a not-for-profit organization, or is an entity described in Section 501(c)(3) of the IRS Code, or has in effect a relationship with an eligible lender under which the lender is acting as trustee on behalf of the State or non-profit entity.

Once an entity has been approved as an eligible not-for-profit holder, the entity must provide to the Secretary an annual certification on the State or non-profit entity's letterhead signed by the CEO, which includes the name and lender identification number(s) of the entities for which designation is being recertified. The annual certification must state that the State or non-profit entity has not altered its status as a State or non-profit entity since its prior certification to the Secretary and that it continues to satisfy the requirements of an eligible not-for-profit holder either in its own right or through a trust agreement with an eligible lender trustee. A copy of its IRS Form 990 – Return of Organization Exempt From Income Tax, if applicable, must be submitted at the same time the entity files that return with the IRS as a part of the annual certification.

When an approved not-for-profit holder has a change in status, within 10 days of becoming aware of the occurrence of a change that may result in a State or non-profit entity that has been designated an eligible not-for-profit holder, either directly or through an eligible lender trustee, losing that eligibility, the State or non-profit entity must submit details of the change to the Secretary.

We estimate that burden will increase by 105 hours for States, not-for-profit entities and eligible lender trustees. The increased burden associated with these proposed changes will be reflected under a new OMB Control Number 1845-XXX2, upon publication of the NPRM.

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. Borrowers, schools, and lenders utilize electronically the National Student Loan Data System to verify accuracy of records. However, to comply with the proposed regulations, a State,

not-for-profit entity, or an eligible lender trustee must submit copies of signed documents, originally signed documents (such as attestations), and annual certifications for approval. If an entity's status changes required contact with the Department would be electronically.

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:

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number(s) of the entities for which designation is being recertified. The annual certification must state that the State or non-profit entity has not altered its status as a State or non-profit entity since its prior certification to the Secretary and that it continues to satisfy the requirements of an eligible not-for-profit holder either in its own right or through a trust agreement with an eligible lender trustee. A copy of its IRS Form 990 – Return of Organization Exempt From Income Tax, if applicable, must be submitted at the same time the entity files that return with the IRS as a part of the annual certification.

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Projected Amount of Burden on Not-for-profit entities:

A. States submitting documentation	23
Average amount of time to complete the submission	2.0 hours
Sub-total	46 hours
B. 501(c)(3) non-profit entities submitting documentation	49
Average amount of time to complete the submission	1.0 hours
Sub-total	49 hours
C. Eligible lender trustees submitting documentation	3
Average amount of time to complete the submission	2.0 hours
Sub-total	6 hours
D. Subsequent submissions for corrections/changes	2
Average amount of time to complete the submission	2.0 hours
Sub-total	4 hours
Total hours of burden:	105 hours

Affected Entities:

NOT-FOR-PROFITS	59 hours
STATES	<u>46 hours</u>
Total:	105 hours

Respondents, Responses and Burden Hours:

# of Respondents	# of Responses	# Hrs/Response	#Hrs Burden
77	77		105

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

This is a new collection.

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.