

LOAN PURCHASE PROGRAMS ELECTRONIC ANNOUNCEMENT #37

Date: November 28, 2008

To: FFEL Program Community

From: James A. Manning, Acting Chief Operating Officer
Federal Student Aid

Subject: Document Submission Process for Execution of the Master Loan Sale Agreement for the Short-Term Purchase Program

In Electronic Announcement #36, we attached the text of the Notice that will be published in the *Federal Register* announcing the terms and conditions of the Department's plan to purchase, on a short-term basis, 2007-2008 academic year FFEL Program loans. Attached to the Notice is the "Master Loan Sale Agreement 2007-2008" dated November 24, 2008, that establishes the terms and conditions of those purchases. In addition to providing the details of the loan purchase program, the MLSA describes the documents that a FFEL lender or holder must submit if it wishes to offer for purchase by the Department 2007-2008 academic year loans.

With the posting of the text of the *Federal Register* Notice, FFEL loan holders may begin submitting documents to the Department using the instructions and procedures described in the attachment to this announcement.

It is important to note that a loan holder wishing to sell 2007-2008 academic year loans to the Department must execute the Master Loan Sale Agreement 2007-2008 even if had previously executed a Master Loan Sale Agreement for 2008-2009 loans. While similar, there are several substantive differences between the process used for execution of the 2008-2009 agreement and the Master Loan Sale Agreement 2007-2008. Among those differences is an expedited execution process for a lender that had previously executed a 2008-2009 MLSA.

The attachment to this memorandum provides instructions on execution and submission of the MLSA and the other documents required to sell loans to the Department. We will provide further information in subsequent Electronic Announcements related to how a lender who has executed an MLSA will submit its offer to sell loans as well as specifications for data file formats and submission.

Thank you for your continued support of these FFEL Loan Purchase Programs.

Attachment

**United States Department of Education
Federal Family Education Loan Program
2007-2008 Short-Term Purchase Program**

**INITIAL DOCUMENT SUBMISSION INSTRUCTIONS
NOVEMBER 26, 2008**

This document provides information and guidance to FFEL Program lenders/holders that wish to execute a Master Loan Sale Agreement 2007-2008 (MLSA) with the U.S. Department of Education (the Department) for the purpose of selling to the Department eligible FFEL loans made for the 2007-2008 academic year.

The procedures included below explain how a lender creates and executes the initial documents needed to enter into an MLSA with the Department. In subsequent announcements, we will provide information on how other documents and data sets will be submitted and acknowledged.

EXECUTING THE MASTER LOAN SALE AGREEMENT

While the documents discussed below (Cover Letter, Adoption Agreement, Officer's Certificate, and the Opinion of Counsel of the Seller) must ultimately be submitted with original "pen and ink" signatures, the Department will initially accept these documents as PDF attachments to an e-mail, as described more fully below, with submission of the paper documents expected within three (3) business days from the e-mail submission. The documents must be submitted together in one packet to the Department at the address(es) provided below.

Note that submission of the documents described below does not constitute execution of the Master Loan Sale Agreement. Formal notification of execution from the Department will be provided upon the Department's review of submitted documents.

Cover Letter

To ensure that the materials submitted to the Department for execution of a Master Loan Sale Agreement are properly tracked, the selling lender/holder should include in its submission a cover letter, printed on the entity's letterhead, which includes the following information:

- The name, Lender ID (LID), and address of the lender/holder that wishes to sell loans to the Department as the "Seller" (see the preamble to the Master Loan Sales Agreement for a definition of "Seller"). Note that a Seller can be the beneficial holder participating in the FFEL Program under an Eligible Lender Trustee (ELT) agreement.
- The name, Lender ID (LID), and address of the Eligible Lender Trustee for a beneficial holder, if appropriate.
- The Seller's contact person with name, address, phone number, e-mail address, and fax number.

Adoption Agreement

A lender that wishes to sell loans to the Department must review the Master Loan Sale Agreement (MLSA), agree to its terms, and execute the MLSA by completing and submitting to the Department an "Adoption Agreement" (see Exhibit A to the MLSA). Note that there are two forms of the Adoption Agreement. The first must be submitted by a Seller that had not executed an MLSA with the Department for 2008-2009 FFEL Program loans. The second, for use by a Seller that has executed such an agreement, includes an additional provision (Section 5) where the Seller (and Eligible Lender Trustee, if appropriate) reaffirms the certifications provided with the earlier execution. Use of this version of the Adoption Agreement relieves the Seller from the requirement that it submit an Officer's Certificate (Exhibit C) and an Opinion of Counsel to the Seller (Exhibit D). Of course, any Seller with an executed 2008-2009 MLSA cannot use the second form if that Seller cannot make the reaffirmation noted in Section 5

The Adoption Agreement must include a signature of an authorized official of:

- The lender/holder, who, upon execution of the Agreement, will be the "Seller" offering to sell Eligible Loans to the Department; and
- The Eligible Lender Trustee if the Seller participates in the FFEL Program as a beneficial holder under an Eligible Lender Trustee (ELT) agreement.

Upon approval of the submission packet, the Department will return a copy of the Adoption Agreement, with a signature of an authorized Departmental official, to the Seller. This will indicate that the Master Loan Sale Agreement 2007-2008 has been executed between the Department and the Seller (and the Eligible Lender Trustee, if applicable).

Seller's Officer's Certificate (Exhibit C of the Master Loan Sale Agreement)

The Seller must provide the Officer's Certificate in the submission packet, including the following attachments as noted in the Certificate:

- Attachment I: A true and correct copy of either the Seller's Certificate of Incorporation and its by-laws, its certificate of limited partnership and limited partnership agreement, or its certificate of formation and limited liability company operating agreement, indicating that all are in full force and effect;
- Attachment II: A true and correct copy of the resolutions duly adopted by the Board of Directors of the Seller, with respect to the authorization and approval of the sale of loans and indicating that said resolutions have not been amended, modified, annulled or revoked and are in full force and effect;
- Attachment III: a Certificate of Good Standing of the Seller.

The Officer's Certificate provides specific legal assurances from the Seller to the Department. The signature blocks include a place not only for the Officer, but also for the Secretary of the Seller's organization.

As a reminder an Officer's Certificate is not required if the Seller has executed an MLSA with the Department for 2008-2009 FFEL Program loans and has used the second version of the Adoption Agreement.

Opinion of Counsel to the Seller (Exhibit D of the Master Loan Sale Agreement)

The Seller must provide an Opinion of Counsel that the Seller is duly incorporated, has authority to perform its duties under the Agreement, has duly executed the Agreement and authorized the sale of loans pursuant to the Agreement, and that the Agreement constitutes a legally binding obligation of the Seller to perform those duties.

As a reminder an Opinion of Counsel to the Seller is not required if the Seller has executed an MLSA with the Department for 2008-2009 FFEL Program loans and has used the second version of the Adoption Agreement.

Submission of Documents

E-Mail: As noted, while the documents discussed above, along with any additional required information, must ultimately be submitted in their original form with "pen and ink" signatures, the Department will initially accept these documents as PDF attachments to an e-mail, sent to the following e-mail address: ffel.agreementprocess@ed.gov.

Document Submission for Loan Purchase Commitment Program
Page 4

Upon receipt and review of the information submitted in the e-mail submission, the Department will send an e-mail message to the Seller's contact e-mail address, as provided on the cover letter, indicating the date the information was received by the Department. The e-mail message will also provide information regarding the actions the Seller must take, if any, while the Department reviews the submission.

Paper: The Department must receive the paper documents no later than three (3) business days from the e-mail submission date. The documents must be submitted together in one packet to the Department at the address(es) provided below.

To avoid a delay in the delivery of mail sent via the U.S. Postal Service, we encourage, if at all possible, the packet be sent by courier or express mail to:

United States Department of Education
830 First Street, N.E.
Room 111G3
Washington, DC 20002
Attention: FFEL Agreement Process Team

If the Seller uses the U.S. Postal Service, the packet should be addressed to:

United States Department of Education
400 Maryland Avenue, SW
UCP, Room 111G3
Washington, DC 20202-5402
Attention: FFEL Agreement Process Team

As noted in the cover announcement to this document, we will provide further information in subsequent Electronic Announcements related to how a lender who has executed an MLSA will submit its offer to sell loans as well as specifications for data file formats and submission.

Questions regarding the information in this document should be directed using email to ffel.agreementprocess@ed.gov or phone to (202) 377-4401.