

4000-01-U

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Title IV, Part I, Section 499 of the Higher Education Act of 1965, as amended -- Competitive Loan Auction Pilot Program

AGENCY: Office of Postsecondary Education, U.S. Department of Education.

ACTION: Notice inviting eligible lenders to participate in the Competitive Loan Auction Pilot Program for the right to originate PLUS loans to parent borrowers under the Federal Family Education Loan (FFEL) Program.

SUMMARY: Through this notice, the Secretary of Education (the Secretary) invites eligible lenders to participate in the Competitive Loan Auction Pilot Program (Auction Program) for the rights to originate PLUS loans to parent borrowers under the FFEL Program. Through the Competitive Loan Auction (Auction), the Secretary will award the rights to originate PLUS loans to new parent borrowers under the Federal PLUS Program authorized by section 428B of Title IV of the Higher Education Act of 1965, as amended (HEA), for loan periods beginning on or after July 1, 2009 and ending June 30, 2011. This notice establishes the dates for submission of information to participate in the Auction,

describes the information that lenders must submit and the auction process, and describes the statutory requirements a lender must meet if it is selected as a winning bidder in the Auction.

DATES:

Deadline for Submission of Pre-Qualification Information:

FFEL Program eligible lenders that wish to bid in the Auction must submit the required prequalification information to the Secretary at the address provided in the ADDRESSES section of this notice by (INSERT DATE), 2009.

Deadline for Submission of PLUS Lender of Last Resort

Applications: FFEL Program eligible lenders interested in serving as a PLUS lender of last resort must submit their applications to the Secretary at the address provided in the ADDRESSES section of this notice by (INSERT DATE), 2009.

Date of Auction: The Auction will be conducted on (INSERT DATE), 2009. Bids for origination rights must be submitted on the date of the Auction to the Secretary at the address provided in the ADDRESSES section of this notice. Bids will only be accepted during the time period the Auction is open on that date, as designated by the Secretary. The time period the Auction will be open will be included in an Auction Information Sheet that will be sent to those eligible lenders meeting the prequalification requirements

to participate in the Auction. The Auction Information Sheet will: (1) describe the procedures for submitting bids, (2) provide the web address of the on-line Auction, and (3) assign eligible bidders a password to submit a bid during the period the Auction is open. When the Auction is complete, the Secretary will notify winning bidders and announce the winning bidders for each State no later than (INSERT DATE), 2009. Further information on the Auction procedures is in the SUPPLEMENTARY INFORMATION section of this notice.

ADDRESSES: Pre-qualification information, PLUS Lender of Last Resort applications, and bids should be sent by e-mail to: plus-auction@ed.gov.

FOR FURTHER INFORMATION CONTACT: For information about the Auction Program go to <http://www.ed.gov/ope/plus-auction> or contact: Donald Conner, U.S. Department of Education, 1990 K Street, NW., room 8030, Washington, DC 20006. Telephone (202) 502-7818, or by fax to (202) 502-7873. You may also e-mail your questions about the Auction to: donald.conner@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

SUPPLEMENTARY INFORMATION: The Secretary announces his intention to conduct and invites eligible FFEL lenders to participate in the Auction for the rights to originate PLUS loans to parent borrowers under the FFEL Program. Through the Auction, the Secretary will award the rights to originate PLUS loans to new parent borrowers under the Federal PLUS Program authorized by section 428B of Title IV of the HEA, for loan periods beginning on or after July 1, 2009 and ending June 30, 2011. The right to originate PLUS loans to parent borrowers under the Federal PLUS Program will be determined through a competitive, sealed bid, one-round auction to be conducted for each State, the District of Columbia, Guam, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Puerto Rico (State). Loans to borrowers attending schools outside of these areas are not included in the Auction Program and may be made by any eligible FFEL Program lender.

Two winning bidders will be identified for each State and will be the only eligible lenders authorized to originate Federal PLUS loans to parent borrowers who are

borrowing on behalf of a dependent student who will be enrolled in an eligible postsecondary educational institution in that State and who are new borrowers on or after July 1, 2009. Parents currently borrowing on behalf of a dependent student enrolled prior to July 1, 2009 may continue with their current lender or secure a loan from another eligible FFEL Program lender. Loans to graduate and professional student borrowers under the PLUS Program are not included in the Auction process.

All eligible Federal PLUS Program loans originated under the Auction will be insured by a guaranty agency against losses. The insurance rate shall be in an amount equal to 99 percent of the unpaid principal and interest due on the loan. The Secretary will not collect a loan fee with respect to eligible Federal PLUS Program loans originated under this program.

To see a listing of the PLUS loan volume by State for Award Years 2006-07 and 2007-08, go to:

<http://www.ed.gov/ope/plus-auction/>

AUCTION REQUIREMENTS:

Prequalification Requirements:

All eligible FFEL Program lenders that want to participate in the Auction for PLUS loans to parent borrowers in a State

under the Federal PLUS Program must meet the following prequalification requirements:

Required Agreement: A lender with a winning bid is obligated to enter into an agreement with the Secretary in accordance with section 499(b)(3)(G)(i) of the HEA, to make PLUS loans to all eligible new parent borrowers in the State(s) for which it has the winning bid.

Borrower Benefits: The statute requires the Secretary to establish the borrower benefits lenders must provide to participate in the Auction Program. The only permitted borrower benefit for PLUS loans to parents made under the Auction Program is a reduction in interest rate of 0.25 percent that is contingent on the borrower's use of an automatic payment process for any payments due. This benefit is required to be offered to all parent PLUS borrowers whose loans are made under the Auction Program in all States for which the lender is the winning bidder.

States in which a bid will be made: An eligible lender participating in the FFEL Program must identify the State(s) in which the lender intends to bid. The listing of a particular State(s) does not limit the lender's ability to bid in an additional State(s) and it does not bind the lender to bid in the State(s) indicated. The listing will provide the Secretary with information necessary to assess

the ability of the lender to originate, service and raise the capital necessary to make PLUS Loans in the State(s) in which the lender has indicated an interest in bidding.

Origination of PLUS Loans: The lender must describe its capacity to originate loans in compliance with existing FFEL Program requirements in the State(s) for which it intends to bid. A lender must explain and provide any supporting documentation that demonstrates its ability to originate the number and dollar volume of loans in each State based on the number and volume of new PLUS loans to parents made in that State in the last complete fiscal year for which data is available.

Note: As the winning bidder, a lender will be one of only two lenders originating all new PLUS loans to parents in each State. The lender should provide any relevant information to assist the Department in determining its capacity to originate loans timely and efficiently in the State(s) for which it intends to bid, including the technological compatibility with the institutions in the State(s) and, the State-designated or other guaranty agency with which the lender may not have previously participated.

Servicing of PLUS Loans: The lender must describe its loan servicing capability for the PLUS loans to parents to be originated in the State(s) for which the lender intends to

bid. The lender may provide any supporting documentation that demonstrates that capability. The lender should advise the Department of any outstanding adverse audit findings, or other compliance or performance issues that may negatively affect the lender's ability to originate or service PLUS loans to parents originated in the State(s) for which it intends to bid. If the lender uses a third-party servicer to originate and/or to provide ongoing servicing of loans, please also provide this information for that servicer(s) and include the organization's name, address, and contact information.

Capital to Make PLUS Loans: The lender must provide any supporting documentation necessary to demonstrate that the lender will have or be able to raise, as necessary, the capital required to provide for the origination and full disbursement of the anticipated new volume of PLUS Loans to parents for the period covered by the Auction Program in the State(s) for which the lender intends to bid.

AUCTION PROCEDURES:

Eligible lenders that meet the prequalification requirements will be permitted to submit a sealed and confidential bid in a one-round auction. A bid must consist of the amount of the special allowance payment (SAP), as defined in section 438 of the HEA, that a lender proposes to

accept from the Secretary for the eligible Federal PLUS Program loans that the lender will make pursuant to this program.

Bids must be submitted on the Auction Date during the time period the Auction will be open as designated by the Secretary. The Secretary will announce the time period during which the Auction will be open in an Auction Information Sheet that will be sent to eligible lenders after their prequalification information has been reviewed and approved. The Auction Information Sheet will (1) describe the procedures for submitting bids, (2) provide the address to which the bid must be submitted, and (3) assign eligible bidders a password to use to submit the bid during the period the Auction is open. When the Auction is complete, the Secretary will post the results of the Auction, including the winning bidders for each State, at <http://www.ed.gov/ope/plus-auction/> no later than (INSERT DATE), 2009. The winning bidders will be the two eligible lenders that submit bids that offer to accept the lowest and second lowest SAP from the Secretary on the Federal PLUS loans made pursuant to the Auction. The winning bidders within each State will be the only FFEL Program lenders permitted to originate loans under the Federal PLUS Program for first time borrower parents of dependent students at

institutions within that State until those students are no longer enrolled at an institution in that State or they graduate from those institutions.

Eligible lender bids will remain confidential even after the announcement of the winning bidders.

WINNING BIDDER REQUIREMENTS:

Each winning bidder in the Auction must enter into an agreement with the Secretary under which the eligible lender agrees to originate eligible Federal PLUS Program loans to each eligible parent borrower that: (1) seeks an eligible Federal PLUS Program loan to enable a dependent student to attend an institution of higher education within that State, (2) is eligible for a Federal PLUS Program loan, and (3) elects to borrow from the eligible lender. Each winning bidder for a State also must agree to accept a SAP from the Secretary for eligible loans originated in the amount proposed in the second lowest winning bid.

If a winning bidder fails to enter into the agreement with the Secretary as required, or fails to comply with the terms of such agreement, the Secretary may sanction the eligible lender in one or more of the following ways:

(1) The Secretary may assess a penalty for any eligible Federal PLUS Program loans that such eligible

lender fails to originate in accordance with the agreement with the Secretary;

(2) The Secretary may prohibit that lender from bidding in other auctions under section 499 of the HEA;

(3) The Secretary may limit, suspend, or terminate the lender's participation in the FFEL Programs; or

(4) The Secretary may take any other enforcement action authorized under Title IV, Part B, of the HEA.

Should the Secretary decide to levy a penalty on a lender, the collection of those penalties may be sought by reducing the amount of any payments otherwise due to the eligible lender from the Secretary by the amount of the penalty or by requesting that any other Federal agency reduce the amount of any payments due to the eligible lender from that agency by the amount of the penalty.

PLUS LENDER OF LAST RESORT:

In the event that there are not two winning bids in a given State, borrowers and institutions of higher education in that State will be served by a PLUS Loan Lender of Last Resort (PLUS-LLR), as determined by the Secretary, in accordance with section 499 of the HEA.

Eligible lenders that wish to be considered as the PLUS-LLR for a given State(s) must (1) prequalify by submitting the prequalification material described in this

notice, (2) submit a letter not less than 14 days prior to the start of the Auction indicating that they want to be considered as a PLUS-LLR and list the State(s) they will service, and (3) commit to making PLUS loans to all eligible new parent borrowers in the State(s) they have indicated until the dependent student graduates or is no longer attending an institution in that State. The Secretary will not identify the PLUS-LLR for a State until after the Auction is completed and only if needed. A prequalified lender that requests to be a PLUS-LLR may still participate as a regular eligible lender in the Auction.

The Secretary is authorized to set a SAP payable to a PLUS-LLR for a State. That SAP will be kept confidential, both before and after the announcement of the winning bidders. To determine the SAP payment to a PLUS-LLR the Secretary will take into account the lowest bid that was submitted in the auction for the State and the lowest bid that was submitted in a similar State in terms of PLUS dollar volume and number of loans.

ADDITIONAL AUCTION PROGRAM INFORMATION:

All eligible Federal PLUS Program loans originated under the Auction Program will be insured by a guaranty agency with which the lender currently has an agreement against losses. The insurance on default claims on these

loans will be in an amount equal to 99 percent of the unpaid principal and interest due on the loan.

The Secretary will not collect a loan fee with respect to eligible Federal PLUS Program loans originated under this program.

If the parent borrower with FFEL PLUS loans made under the Auction Program requests to consolidate those loans, the FFEL Program eligible lender who made those loans may consolidate the borrower's Federal PLUS Program loans made under this program into one loan under certain conditions, as described in section 499(L)(i)-(iii) of the HEA. Similarly, an eligible lender with a winning bid may consolidate a Federal Direct PLUS Program loan or a loan made to the parent borrower under section 428B of the HEA under conditions described in section 499(L)(iv)(I) and (II) of the HEA. For Federal Direct PLUS Program loans, the Auction Program eligible lender must agree within 10 days to match the terms and conditions available under the Federal Direct Consolidation Loan Program.

The SAP paid to Auction Program eligible lenders on FFEL Program Consolidation loans is the lesser of the weighted average of the SAP on the loans consolidated (excluding Federal Direct PLUS Program loans) or the average

of the bond equivalent rates of the quotes of the 3-month average commercial paper rate plus 1.59 percent.

An Auction Program lender who consolidates a PLUS Program loan under this program is not required to pay the interest payment rebate fee on the Consolidation loan under Section 428C(f) of the HEA.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: www.ed.gov/news/fedregister

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Note: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available on GPO Access at: www.gpoaccess.gov/nara/index.html.

Dated:

Daniel T. Madzellan,

Delegated the Authority to Perform
the Functions and Duties of the
Assistant Secretary for
Postsecondary Education.