

## **SUPPORTING STATEMENT**

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

### **A. Justification**

#### **1. Necessity of Information Collected**

The Federal Family Education Loan (FFEL) Program proposed regulations revise the current regulations for program administration as described below.

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 requirements contained in the attached proposed regulations related to the administrative requirements of 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: 1845-0020)

Sections 682.205, 682.206, 682.208, 682.210, 682.211, 682.215, 682.216, 682.305, 682.401, 682.402, 682.405, 682.410, and 682.604 contain information collection requirements currently approved by OMB. 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:

#### **Section 682.205 – Disclosure requirements for lenders.**

The proposed language separates the section into subsections to include, disclosures at or prior to repayment; the disclosures required during repayment; the disclosures required for borrowers having difficulty making payments and the disclosures required for borrowers who are 60-days delinquent.

#### **Section 682.206 – Due diligence in making a loan.**

The proposed regulations for section 682.206(f) would include a new requirement necessary to implement a provision in 682.205(i)(7) insuring lenders inform borrowers via a new disclosure specifically for consolidation loan borrowers, that by applying for the consolidation loan, the borrower is not obligated to agree to take the loan. The affected entities are borrowers and lenders. These additional requirements will increase burden.

The proposed regulations in 682.206(f) would be amended to include a requirement that the lender provide a consolidation loan borrower not less than 10 days from the date the borrower is notified by the lender that it is ready to make the consolidation loan, to cancel the loan. The proposed regulations would require the lender to send that notice of the option to cancel the loan to the borrower before making any payments to pay off a loan with the proceeds of a consolidation loan. The affected entities are borrowers and lenders. These additional requirements will increase burden.

#### **Section 682.208 – Due diligence in disbursing a loan.**

The proposed regulations incorporate three additional information items specified in the HEA that must be provided to a borrower if the assignment or transfer of ownership interest on a FFEL program loan results in a change in the identity of the party to whom subsequent payment must be sent. The three additional data items are: the effective date of the assignment or transfer of the loan; the date on which the current initial loan servicer will cease accepting payments; and the date on which the new loan servicer will begin accepting payments. These three additional items will not change the burden.

#### **Section 682.211 – Forbearance.**

The proposed regulations would add a new administrative forbearance provision to 682.211(f) allowing a lender to grant forbearance, upon notice to the borrower, for a borrower's PLUS loans first disbursed before July 1, 2008 to align repayment with a borrower's PLUS loans first disbursed on or after July 1, 2008, or with a borrower's Stafford Loans that are subject to a grace period. In the notice to the borrower, the lender would be required to inform the borrower that he or she has the option to cancel the forbearance and continue paying on the loan. The affected entities are loan holders.

The proposed regulations in 682.211(e) would require the lender, at the time the borrower is granted a forbearance, to give the borrower information about the impact of capitalization of interest on the loan and the total to be repaid over the life of the loan. The affected entities are lenders and this requirement will increase burden. The requirement for the lender to contact the borrower every 180 days does not represent a change in burden as this contact is currently required.

#### **Section 682.215 – Income-based repayment.**

The proposed regulations would revise the definition of partial financial hardship in 682.215(a)(4) to specify that the annual amount due on a borrower's eligible loans for purposes of determining whether the borrower has a partial financial hardship is the greater of the amount due on the eligible loans when the borrower initially entered repayment on those loans, or the amount due on those loans when the borrower elects the IBR plan. The proposed regulations would also provide that when a married

borrower and his or her spouse file a joint tax return with the IRS and both the borrower and the spouse have eligible loans, the joint AGI and the total amount of the borrower's and spouse's eligible loans will be used in determining whether each borrower has a partial financial hardship.

The proposed regulations would revise 682.215(b)(1) and 685.221 (b)(2) to provide that if a borrower and a borrower's spouse both have eligible loans and filed a joint federal tax return, each borrower's percentage of the couple's total eligible loan debt would be determined, and the calculated partial financial hardship payment amount for each borrower would be adjusted by multiplying the payment by the applicable borrower's percentage. As with all other borrowers, each borrower's adjusted payment amount would be further adjusted if the borrower's loans are held by multiple holders.

**Section 682.305 – Procedures for payment of interest benefits and special allowance and collection of origination and loan fees.**

The proposed regulations would amend 682.305(c) to require that a FFEL school lender, or a lender serving as a trustee on behalf of a school or school-affiliated organization for the purpose of originating loans, submit an annual compliance audit to the Department regardless of the dollar volume of loans originated.

**Section 682.401 – Basic program agreement.**

The proposed regulations require guaranty agencies to work with the schools that it serves to develop and make available high-quality educational materials and programs to provide training for students and their families in budgeting and financial management, including debt management and other aspects of financial literacy, such as the cost of using high-interest loans to pay for postsecondary education, and how budgeting and financial management relate to the title IV student loan programs. Historically, we know that guaranty agencies and institutions they serve have worked together to provide educational materials, therefore we estimate that the affected entities will have a small increase in burden.

**Section 682.405 – Loan rehabilitation agreement.**

Under the proposed 682.405(b), if a borrower successfully rehabilitates a previously defaulted loan, the proposed regulations would require the prior holder of the loan, in addition to the guaranty agency, to request that a consumer reporting agency to which the default was reported remove the default from the borrower's credit history.

The proposed regulations would revise 682.405(c), regarding loan rehabilitation agreements, by adding a provision requiring guaranty agencies to make available financial and economic education materials, including debt management information, to any borrower who has rehabilitated a defaulted loan.

**Section 682.410 – Fiscal, administrative, and enforcement requirements.**

The proposed regulations would also require a guaranty agency to provide the information required in 682.410(b)(5)(ii) to a defaulted borrower in a second notice that the guaranty agency must send as part of its required collections efforts on a defaulted loan under 682.410(b)(6). This proposed requirement will increase burden on guaranty agencies.

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

The proposed regulations in 682.604(f)(3) require that institutions provide initial counseling for Stafford and graduate or professional student PLUS Loan borrowers. Comprehensive information on the terms and conditions of the loan and on the responsibilities of the borrower with respect to the loan must be provided. Institutions are encouraged to use interactive programs that provide online borrower acknowledgement of receipt. The increase in burden for borrowers and institutions is as a result of expanding the counseling from the current requirements.

**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. Reporting 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**

These proposed regulations were discussed with members of the higher education community and other interested parties in a series of Negotiated Rulemaking sessions in March, April and May of 2009. Additionally, we will publish a Notice of Proposed Rulemaking and a Notice of Final Regulations in the Federal Register allowing for public comment by all interested parties.

**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 682.205 – Disclosure requirements for lenders.**

We estimate that separating the disclosures into subsections to include, disclosures at or prior to repayment; the disclosures required during repayment; the disclosures required for borrowers having difficulty making payments and the disclosures required for borrowers who are 60-days delinquent will increase burden for loan holders. Loan holders will have increased burden due to the additional disclosures for two groups of borrowers: borrowers that are having difficulty making payments, and borrowers that are 60-days delinquent. There is no additional burden associated with the required disclosures that loan holders are already required to make to borrowers prior to repayment and during repayment.

Disclosures for borrowers having difficulty making repayment:

Total number of FFEL borrowers:	5,939,400
Estimated number that will have difficulty and require additional disclosures:	<u>X 0.55</u> 3,266,670

Total number of FFEL borrowers:	5,939,400
Disclosures for borrowers that are 60-days delinquent:	<u>X 0.21</u> 1,425,456

Total number of borrowers that will require additional disclosures:	4,692,126
Hours per additional disclosure:	<u>X 0.17 (10 minutes)</u>

**TOTAL HOURS OF INCREASED BURDEN  
FOR LOAN HOLDERS: 797,661 hours**

**Section 682.206 – Due diligence in making a loan.**

The proposed regulations require the lender to provide the borrower with an application for a Consolidation Loan that is written in simple and understandable terms which discloses the terms and conditions of the Consolidation Loan.

AFFECTED ENTITIES and BURDEN:

Estimated number of FFEL Consolidation Loan applications lenders will provide:	11,147
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Average amt of time the lender takes to provide the information and answer questions: LENDERS:	<u>X .08 hours (5 minutes)</u> 892 hours
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Estimated number of FFEL Consolidation Loan borrowers:	10,032
Average amt of time the borrower to read, gather documents, and submit the documents and loan application:	<u>X 1.0 hour</u>
BORROWERS:	10,032 hours
<b>TOTAL BURDEN INCREASE:</b>	<b>10,924 hours</b>

Under the proposed regulations, lenders would be required to notify the borrower upon receipt of the Consolidation Loan application including all required documentation. The lender notification would remind the borrower that he or she has 10 days to exercise the option to cancel the Consolidation Loan.

We estimate that the burden associated with this notification will increase.

**AFFECTED ENTITIES and BURDEN:**

Estimated number of FFEL Consolidation Loan applications submitted for which lender notification is required:	670,753
Average amt of time the lender takes to provide the notification:	<u>.08 hours (5 mins.)</u>
LENDERS:	53,660 hours
<b>TOTAL BURDEN:</b>	<b>64,584 hours</b>

**Section 682.211 – Forbearance.**

We estimate that 75% of the annual number of PLUS loan and GRAD PLUS loan recipients had other PLUS loans prior to July 1, 2008. This is the number where the new administrative forbearance may be provided to align loan repayment and requires the lender to notify the borrower.

**AFFECTED ENTITIES and BURDEN:**

Section 682.211(f):	
# of PLUS Borrowers:	487,685
# of GRAD/PLUS Borrowers:	<u>154,088</u>
Total PLUS Borrowers:	641,773
	<u>X 0.75</u>

# of alignment forbearances: 481,330  
Amount of time to notify: X 0.03 (2 minutes)

**INCREASE IN BURDEN FOR LENDERS: 14,440 hours**

Section 682.211(e)

Impact of providing information of the capitalization of interest on the loan:

AFFECTED ENTITIES and BURDEN:

Number of forbearances provided: 2,696,673  
Burden hours per recipient: X 0.08 (5 minutes)

**TOTAL BURDEN FOR LENDERS: 215,734 hours**

**Section 682.215 – Income-based repayment.**

We estimate that this change in the method of calculating an income-based repayment will increase burden to loan holders by .08 hours per borrower. We estimate the number of borrowers that will qualify for IBR to be 1,128,579.

1,128,579 X .08 hours = 90,286 hours

**TOTAL BURDEN FOR LENDERS: 90,286 hours**

**Section 682.305 – Procedures for payment of interest benefits and special allowance and collection of origination and loan fees.**

AFFECTED ENTITIES and BURDEN:

Number of Schools as Lenders: 144  
Number of Eligible Lender Trustees: 218  
Total Affected Entities: 362

We estimate that 50% will be impacted by the new requirement to submit an audit: X.50  
181

We estimate that the average number of hours to prepare and complete the audit to be: 100 hours

**TOTAL BURDEN HOUR INCREASE: 18,100 hours**

**Section 682.401 – Basic program agreement.**

AFFECTED ENTITIES and BURDEN:  
INSTITUTIONS:



We recognize that there is a small amount of burden for institutions to provide their borrowers with expanded financial literacy information provided by guaranty agencies.

Number of Public institutions in the FFEL program: 1,363  
X 2 hours  
2,726 hours

Number of Private institutions in the FFEL program: 1,536  
X 2 hours  
3,072 hours

Number of Proprietary institutions in the FFEL program: 1,295  
X 2 hours  
2,590 hours

**TOTAL BURDEN INCREASE FOR INSTITUTIONS: 8,388 hours**

**GUARANTY AGENCIES:**

We estimate that each agency will average 10 additional hours of burden expanding its current consumer education information.

36 guaranty agencies X 10 hours/agency = 360 hours

**TOTAL BURDEN INCREASE: 8,748 hours**

**Section 682.405 – Loan rehabilitation agreement.**

Under 682.405(b), when a borrower successfully rehabilitates a previously defaulted loan, the proposed regulations would require the prior holder of the loan, in addition to the guaranty agency, to request that a consumer reporting agency to which the default was reported remove the default from the borrower’s credit history. We estimate that there are 143,687 rehabilitated loans. In addition, we estimate that there are 86,212 prior holders of these rehabilitated loans. We estimate .08 hours of burden for the removal of a default from the borrower’s credit history.

143,687 rehabilitated loans + 86,212 prior holders = 229,899

229,899 X .08 hours = 18,392 hours

**TOTAL BURDEN INCREASE: 18,392 hours**

Under 682.405(c), guaranty agencies will be required to make available financial and economic materials to borrowers who defaulted on their loans, but subsequently rehabilitated those loans. We estimate that there are 143,687 rehabilitated loans. We estimate an increase in burden of .17 hours per loan.

143,687 x .17 hours = 24,427 hours

**TOTAL BURDEN INCREASE: 24,427 hours**

**Section 682.410 – Fiscal, administrative, and enforcement requirements.**

We estimate that the second required notice to defaulted borrowers by the guaranty agency will increase the burden to the agency by an additional 5 minutes per borrower in default.

AFFECTED ENTITIES and BURDEN:

GUARANTY AGENCIES:

Number of borrowers in default:

734,918

Amount of time for the second notification:

X .08 hours (5 minutes)

**TOTAL AMOUNT OF INCREASED BURDEN: 58,793 hours**

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

We estimate that the additional burden on borrowers and institutions will increase slightly.

AFFECTED ENTITIES and BURDEN:

Entrance Counseling:

Number of FFEL borrowers:

5,939,400

Estimate of additional burden:

X .08 hours (5 minutes)

**TOTAL INCREASED BURDEN FOR BORROWERS: 475,152 hours  
(Ties to Team II)**

Number of FFEL Institutions:

Public institutions in the FFEL program:

1,363

Estimate of the additional burden:

X 3 hours

4,089 hours

Private institutions in the FFEL program:

1,536

Estimate of the additional burden:

X 3 hours

4,608 hours

Proprietary institutions in the FFEL program:

1,295

Estimate of the additional burden:

X 3 hours

3,885 hours

**TOTAL INCREASED BURDEN FOR  
INSTITUTIONS:**

**12,582 hours  
(Ties to Team II)**

Exit Counseling:

Number of FFEL borrowers:

5,404,854

Estimate of additional burden: X .08 hours (5 minutes)

**TOTAL INCREASED BURDEN FOR  
BORROWERS:** **432,388 hours**  
**(Ties to Team II)**

Number of FFEL Institutions:  
Public institutions in the FFEL program: 1,363  
Estimate of the additional burden: X 3 hours  
4,089 hours

Private institutions in the FFEL program: 1,536  
Estimate of the additional burden: X 3 hours  
4,608 hours

Proprietary institutions in the FFEL program: 1,295  
Estimate of the additional burden: X 3 hours  
3,885 hours

**TOTAL INCREASED BURDEN FOR  
INSTITUTIONS:** **12,582 hours**  
**(Ties to Team II)**

TOTAL Respondents, Responses and Burden Hours:

	# of Respondents	# of Responses	#Hrs Burden
BORROWERS	11,354,286	11,354,286	917,572
INSTITUTIONS	12,654	12,654	40,752
LENDERS/GAs	<u>10,789,257</u>	<u>10,789,257</u>	<u>1,285,545</u>
TOTAL	22,156,197	22,156,197	2,243,869

**Annual Cost of Burden to Respondents**

**Section 682.205 – Disclosure requirements for lenders.**

We estimate that reprogramming systems will require  
50 hours at \$100/hour: \$5,000

We estimate that 85% of the borrowers will apply for a  
Consolidation Loan on-line and that 15% will request,  
complete and submit a paper Consolidation Loan  
application. The cost associated with the paper application  
is:  $10,032 \times .15 = 1,505$  paper applications  
Lender postage = \$.44

Lender envelope = \$.05  
 Total Lender Cost for providing paper application:  
 $\$0.49 \times 1,505 = \$ 737$

Borrower Costs to return paper application:  
 $\$0.49 \times 1,505 = \underline{\$ 737}$

TOTAL COST:  $\$6,474$

Disclosure Requirements for Lenders:

We estimate that the computer programming costs for LOAN HOLDERS to increase by 10 hours per LOAN HOLDER (2,527 lenders and 36 guaranty agencies) times \$100 per hour for programming.

$2,527 + 36 = 2,563 \times 10 \text{ hours} \times \$100/\text{hour} = \$2,563,000$

**Section 682.206 – Due diligence in making a loan.**

We estimate that 85% of the notification will occur electronically and 15% will occur via the United States Postal Service.

Cost for programming the notification into the lender’s computer system:

$10 \text{ hours} \times \$100/\text{hour} = \$1,000$   
 $\quad \quad \quad \times \underline{2,527 \text{ lenders}}$   
 $\quad \quad \quad \quad \quad \quad \$2,527,000$

Cost for mailing notifications:

Cost of envelope = \$0.05  
 Cost of stamp = \$0.44  
 Mailing unit  
 Cost = \$0.49

# of notifications sent by mail:

$670,753 \times 15\% = 100,613 \times \$0.49 = \$49,300$

TOTAL COST:  $\$2,576,300$

**Section 682.211 – Forbearance.**

We estimate the cost for programming lender computer systems to be 4 hours X \$100 per hour X 2,527 lenders = \$1,010,800

We estimate that the mailing cost for 15% of the PLUS borrowers that had a PLUS loan prior to July 1, 2008 of the administratively provided alignment forbearance to be:

# of PLUS Borrowers: 487,685  
 # of GRAD/PLUS Borrowers: 154,088  
 Total PLUS Borrowers: 641,773  
 $\quad \quad \quad \times \underline{0.75}$

# of alignment forbearances:	481,330
	<u>X .15</u>
	72,200
Cost for mailing notifications:	
Cost of envelope = \$0.05	
Cost of stamp = <u>\$0.44</u>	
Mailing unit	
Cost = \$0.49	<u>X \$0.49</u>
Total Cost	\$35,378

Impact of providing information of the capitalization of interest on the loan:

We estimate the cost for 2,527 lenders to reprogram their computer system at 5 hours of programming at \$100/hour = \$1,263,500

**Section 682.215 – Income-based repayment.**

We estimate the cost for 2,527 loan holders for 3 hours of computer system programming at \$100/ hour.

$$2,527 \times 3 \text{ hours} \times \$100/\text{hours} = \$817,500$$

**Section 682.305 – Procedures for payment of interest benefits and special allowance and collection of origination and loan fees.**

We estimate that the 100 hours needed to prepare and complete the required audit will have an average cost of \$125/hour.

The total cost is projected to be:

$$100 \text{ hours} \times \$125/\text{hour} \times 181 \text{ affected entities} = \$2,262,500$$

**Section 682.401 – Basic program agreement.**

We estimate that the cost to the guaranty agencies for the development of expanded consumer education information to be 360 hours times the average cost of \$100/hour for a total cost of: \$ 36,000

**TOTAL ESTIMATED COST: \$7,253,952**

**13. Start-up Cost Burden to the Respondent**

There are no new system start-up costs associated with these proposed regulations.

**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 revised collection that is required by a proposed change in the regulation due to implementing the statutory changes made by the Higher Education Opportunity Act (HEOA) (Pub. L. 110-315) that amends the Higher Education Act of 1965, as amended (HEA). A summary is provided below.

Respondents, Responses and Burden Hours:

	# of Respondents	# of Responses	# Hrs/Response	#Hrs Burden
<b>Section 682.205 – Disclosure requirements for lenders.</b>				
	4,713,305	4,713,305		808,585
<b>Section 682.206 – Due diligence in making a loan.</b>				
	670,753	670,753		53,660
<b>Section 682.211 – Forbearance.</b>				
	3,178,003	3,178,003		230,174
<b>Section 682.215 – Income-based repayment.</b>				
	1,128,579	1,128,579		90,286
<b>Section 682.305 – Procedures for payment of interest benefits and special allowance and collection of origination and loan fees.</b>				
	181	181		18,100
<b>Section 682.401 – Basic program agreement.</b>				
	4,230	4,230		8,748
<b>Section 682.405 – Loan rehabilitation agreement.</b>				
	373,586	373,586		42,819
<b>Section 682.410 – Fiscal, administrative, and enforcement requirements.</b>				
	734,918	734,918		58,793
<b>Section 682.604 – Processing the borrower’s loan proceeds and counseling borrowers.</b>				
	11,352,642	11,352,642		932,704
Total Proposed Inventory:	# of Respondents	# of Responses		#Hrs Burden
	22,156,197	22,156,197		2,243,869

Current Inventory:	# of Respondents	# of Responses	#Hrs Burden
	1,238,280	2,783,956	9,921,638

NOTE: Please note that during the development of this collection package we discovered what seems like a data entry error that resulted in the number of responses in the current inventory to be under-reported. We believe that the number of responses 1,238,280 as reported on the approved Notice of OMB Action dated 11.28.08, was in fact, the number of respondents. The actual number of responses in the current inventory is 2,783,956, thus it was under-reported in the Notice of OMB Action by 1,545,676. Therefore, as a part of this collections package we are requesting a “Change due to Agency Adjustment” to increase the number of responses from 1,238,280 to 2,783,956 as originally reported in OMB 1845-0020.v.7. (the total correct number of responses, 2,783,956 is reflected above in the Current Inventory # of Responses).

Revised Inventory:	# of Respondents	# of Responses	#Hrs Burden
	23,394,477	24,940,153	12,165,507

**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.