

SUPPORTING STATEMENT

Information Collections Under the Regulations Governing the Institution and Lender Requirements Relating to Education Loans.

A. Justification

1. Necessity of Information Collected

The Institution and Lender Requirements Relating to Education Loans regulations for program administration are new.

These 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 of the Institution and Lender Requirements Relating to Education Loans. 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.

EDUCATION LOANS: (OMB control number: 1845-XXXA)

Sections 601.10, 601.11, 601.20, 601.21, and 601.40 contain information collection requirements 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 this section to the Office of Management (OMB) for its review. We are adding the following new sections:

Section 601.10 – Preferred lender arrangement disclosures.

The regulations require that a covered institution, or an institution-affiliated organization of a covered institution, that participates in a preferred lender arrangement must provide a variety of disclosures identified on the model disclosure form developed by the Secretary for each type of education loan that is offered pursuant to a preferred lender arrangement and a statement that the institution is required to process the documents required to obtain a loan under the Federal Family Education Loan (FFEL) Program from any eligible lender the student selects.

The regulations would require a covered institution, or an institution-affiliated organization of a covered institution to provide the disclosures required under Section 128(e)(11) of the Truth in Lending Act (TILA) for each type of private education loan offered pursuant to a preferred lender arrangement.

The regulations require that if a covered institution compiles, maintains, and makes available a preferred lender list, the institution must clearly and fully disclose on the

preferred lender list why the institution participates in a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and that the students attending the institution, or the families of such students, do not have to borrow from a lender on the preferred lender list.

The regulations require that the preferred lender list would prominently disclose the method and criteria used by the institution in selecting lenders with which to participate in preferred lender arrangements to ensure that such lenders are selected on the basis of the best interests of the borrowers.

Section 601.11 – Private education loan disclosures and self-certification form.

The regulations require a covered institution, or an institution-affiliated organization of a covered institution, to provide to a prospective borrower private education loan disclosures. The private education loan disclosures required must provide the prospective borrower with the information required under section 128(e)(1) of the Truth in Lending Act (TILA); and must inform the prospective borrower that he or she may qualify for loans or other assistance under Title IV of the HEA; and that the terms and conditions of Title IV, HEA program loans may be more favorable than the provisions of private education loans. The information regarding private education loans must be presented in such a manner as to be distinct from information regarding Title IV, HEA program loans.

Section 155 of the Higher Education Act of 1965, as amended (HEA), requires that the Secretary, in consultation with the Board of Governors of the Federal Reserve System, shall develop a self-certification form for private educational loans that shall be used to satisfy the requirements of section 128(e)(3) of the Truth in Lending Act (TILA). The regulations require that, upon an enrolled or admitted student applicant's request for a private education loan self-certification form, an institution must provide to the applicant, in written or electronic form, the self-certification form for private education loans developed by the Secretary to satisfy the requirements of Section 128(e)(3) of the TILA. Under TILA, before a private educational lender may consummate a private education loan with respect to a student attending an institution of higher education, the lender shall obtain from the applicant for the private education loan, the form developed by the Secretary of Education under section 155 of the Higher Education Act of 1965, signed by the applicant.

The institution must also provide the information required to complete the form, if the institution possesses that information.

This Supporting Statement covers the Private Education Loan Applicant Self-Certification form developed to meet the requirements of section 155 of the HEA and section 128(e)(3) of the TILA.

Section 601.20 – Annual report.

The regulations require a covered institution, and an institution-affiliated organization that participates in a preferred lender arrangement to prepare and submit to the Secretary an annual report. The annual report would include, for each lender that participates in a preferred lender arrangement with the covered institution or organization, the information about preferred lenders arrangements that must also be described for students and parents; and a detailed explanation of why the covered institution or institution-affiliated organization participates in a preferred lender arrangement with the lender. The explanation must include an explanation of why the terms, conditions, and provisions of each type of education loan provided pursuant to the preferred lender arrangement are beneficial for students attending the institution, or the families of such students, as applicable. This annual report must be made available to the public and provided to students attending or planning to attend the covered institution and the families of such students.

Section 601.21 – Code of conduct.

The regulations require a covered institution that participates in a preferred lender arrangement to develop a code of conduct with respect to FFEL Program loans and private education loans with which the institution's agents must comply to prohibit a conflict of interest with the responsibilities of an agent of an institution with respect to FFEL Program loans and private education loans. That code of conduct must be published prominently on the institution's Web site; and administer and enforce the code by, at a minimum, requiring that all of the institution's agents with responsibilities with respect to FFEL Program loans or private education loans be annually informed of the provisions of the code of conduct.

Section 601.40 – Lender responsibilities.

The regulations require FFEL lenders to provide FFEL borrowers the disclosures required under current sections 682.205(a) and (b). A lender offering private education loans must comply with the disclosures required under section 128(e) of TILA for each type of private loan.

The regulations set forth the information the lenders will have to provide to the Secretary on an annual basis regarding any reasonable expenses paid or provided to any agent of a covered institution who is employed in the financial aid office or has responsibilities with respect to education loans or other financial aid of the institution for service by the employee on an advisory board, commission or group established by a lender or a group of lenders.

The regulations require any FFEL lender participating in one or more preferred lender arrangements to annually certify to the Secretary, its compliance with the HEA. Lenders required to file an audit under section 682.305(c) must include the

certification as part of the audit. A lender that is not required to submit an audit must provide the certification separately.

2. Purpose and Use of Information Collected

Institution and Lender Requirements Relating to Education Loans regulations:

The Institution and Lender Requirements Relating to Education Loans regulations are maintained by two major groups: 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. Not collecting the information described would place borrowers of private educational loans at risk.

The information collected on Private Education Loan Applicant Self-Certification form will be used for the purposes described in Item 1. This is a new form. A justification of the data elements on the form is provided at the end of this Supporting Statement.

3. Consideration of Improved Information Technology

Institution and Lender Requirements Relating to Education Loans:

Lenders and schools conduct business with the Department electronically. Schools and lenders utilize electronically the National Student Loan Data System to verify accuracy of records.

The Private Education Loan Applicant Self-Certification form is a new form and has not yet been converted into an electronic format at the time of this submission, however both the HEA and the TILA provide for a written or electronic form. A paper form and an electronic (pdf) version of the self-certification form are submitted to OMB for approval.

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.

Borrowers of private educational loans are required to submit a completed Private Education Loan Applicant Self-Certification form to the lender prior to the lender's consummation of the private education loan.

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

The applicable 30 and 60 day comment periods inviting public comment were published in the Federal Register Notice.

In creating the Private Education Loan Applicant Self-Certification form, we consulted with the National Council of Higher Education Loan Programs (NCHELP) and the National Association of Student Financial Aid Administrators (NASFAA) which represents lenders, loan servicers, and other entities that are involved in the administration of the FFEL Program. We also consulted with and the Federal Reserve Board.

We received numerous comments to the 60 and 30-day Federal Register Notices. We incorporated a majority of the suggested comments into a revised Private Education Loan Applicant Self-Certification form.

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 Free Application for Federal Student Aid completed by each student in order to receive Title IV, HEA program assistance. 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 Title IV education loan funds, the information must be provided. 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.

The Private Education Loan Applicant Self-Certification form included with this submission includes a Privacy Act Notice that (1) informs borrowers of the statutory authority for the information collection, and (2) explains that disclosure of the information is voluntary, but is required in order for the borrower to obtain a private education loan. The Private Education Loan Applicant Self-Certification form is completed by the student and submitted to the private loan provider, the completed form is not returned to the school, nor is the form stored in a Department database, rather, it is required to be maintained by the private loan provider. A paper form and an electronic (pdf) version of the self-certification form are submitted to OMB for approval.

11. Questions of Sensitive Nature

The Department is not requesting any sensitive data.

12. Annual Hour Burden for Respondents/Recordkeepers.

Institution and Lender Requirements Relating to Education Loans:

Section 601.10 – Preferred lender arrangement disclosures.

We estimate that 1,342 institutions that participate in the FFEL program (and their institutionally-affiliated organizations) will have preferred lender arrangements. The Department will issue a model disclosure form which institutions will adopt. We estimate that on average, there will be 3 hours of additional burden per institution for the adoption and implementation of the Department’s new model disclosure form. We estimate that 1,900,608 FFEL borrowers will receive this new model disclosure form and the burden to each borrower to be .17 hours.

We estimate that each institution with a preferred lender list for which it compiles, maintains, and makes available the list and where the institution explains the terms and conditions of the loans, as well as the selection methodology and criterion of their selection to average 6 hours of burden.

AFFECTED ENTITIES and BURDEN:

INSTITUTIONS:

Burden to adopt the model disclosure form:	3 hours
Burden to compile and maintain the list:	<u>6 hours</u>
Total:	9 hours
1,342 institutions X	9 hours=
	12,078 hours

Proprietary Institutions:				
.18	X	12,078 hours	=	2,174 hours
Private Institutions:				
.40	X	12,078 hours	=	4,831 hours
Public Institutions:				
.42	X	12,078 hours	=	5,073 hours

BORROWERS:

$$1,900,608 \text{ borrowers} \times .17 \text{ hours (10 minutes)} = 323,103 \text{ hours}$$

Section 601.11 – Private education loan disclosures and self-certification form.

We estimate the number of covered institutions (and their institutionally-affiliated organizations) that must comply with these proposed disclosure regulations to be 6,264.

We estimate that 1,757 covered institutions and their institutionally- affiliated organizations will be providing private education loans and therefore adopting TILA compliant disclosures for all private education loans they offer. We estimate the burden for the implementation of the TILA compliant disclosures to be 4 hours per institution. We estimate 3,333,600 borrowers of private education loans and that the average amount of burden to provide the TILA disclosures to be .25 hour per loan.

The Department has developed a self-certification form for adoption by all covered institutions. We estimate that on average, there will be 3 hours of additional burden per institution for the adoption and implementation of the Department’s self-certification. Additionally, we estimate that 3,333,600 borrowers will receive this new self-certification form in their pursuit of a private education loan. We estimate the burden to the institution to provide each self-certification form to be .33 hours per form.

We estimate the burden on the borrower to obtain the self-certification form be .25 hours per private loan.

**AFFECTED ENTITIES and BURDEN:
INSTITUTIONS:**

TILA Disclosures:				
Burden to adopt the model disclosure form:				4 hours
1,757 institutions	X	4 hours	=	7,028 hours
Proprietary Institutions:				
.05	X	7,028 hours	=	351 hours

Private Institutions:
.56 X 7,028 hours = 3,936 hours
Public Institutions:
.39 X 7,028 hours = 2,741 hours

Completion and Distribution of TILA Disclosures:
3,333,600 private education loans X .33 hours = 1,100,088 hours

Proprietary Institutions:
.05 X 1,100,088 hours = 55,004 hours
Private Institutions:
.56 X 1,100,088 hours = 616,049 hours
Public Institutions:
.39 X 1,100,088 hours = 429,035 hours

BORROWERS:
3,333,600 X .25 hours = 833,400 hours

Section 601.20 – Annual report.

We estimate that 1,342 institutions that participate in the FFEL program (and their institutionally-affiliated organizations) will have preferred lender arrangements. Since the information to be reported to the Secretary has already been gathered and reported to prospective and enrolled students and their families, we do not anticipate significant additional burden .

**AFFECTED ENTITIES and BURDEN:
INSTITUTIONS:**

1,342 X .25 hour = 336 hours

Proprietary Institutions:
.05 X 1,342 X .25 hours = 17 hours
Private Institutions:
.56 X 1,342 X .25 hours = 188 hours
Public Institutions:
.39 X 1,342 X .25 hours = 131 hours

Section 601.21 – Code of conduct.

We estimate that the average amount of time to develop and implement the required code of conduct to be 3.5 hours per institution.

AFFECTED ENTITIES and BURDEN:
INSTITUTIONS:

1,342 X 3.5 hours = 4,697 hours

Proprietary Institutions:

.05 X 4,697 = 235 hours

Private Institutions:

.56 X 4,697 = 2,630 hours

Public Institutions:

.39 X 4,697 = 1,832 hours

Section 601.40 – Lender responsibilities.

We estimate that 884 FFEL lenders will offer private education loans. We estimate that the required TILA compliant disclosures will increase burden by .17 hours per borrower. We estimate there will be 3,333,600 borrowers of private education loans from FFEL lenders and 333,360 borrowers of private education loans from Direct Lending institutions. We estimate the burden on borrowers to be .08 hours per loan.

We estimate that the annual report to the Secretary by FFEL lenders offering private education loans will average .33 hours (20 minutes).

We estimate that the annual audit requirements will not increase burden as the burden associated with the audit requirements are contained in OMB 1845-0020.

AFFECTED ENTITIES and BURDEN:
LENDERS:

Private education loan borrowers at FFEL institutions: 3,333,600

Private education loan borrowers at DL institutions: 333,360

Total Private education loan borrowers: 3,666,960

Burden on Lenders for TILA Compliant Disclosures

3,666,960 X .17 hours (10 minutes)/borrower = 623,383 hours

of Lenders 884 X .33 hours to report on reasonable expenses paid to an agent of a covered institution = 292 hours

BORROWERS:

3,666,960 X .08 hours (5 minutes)/borrower = 293,357 hours

SUMMARY OF BURDEN ON AFFECTED ENTITIES:

	# of Respondents	# of Responses	#Hrs Burden
BORROWERS	8,901,168	8,901,168	1,449,860
PRIVATE SECTOR	3,723,312	3,723,312	681,456
NOT FOR PROFIT	619,073	619,073	627,634
STATE/PUBLIC	<u>431,330</u>	<u>431,330</u>	<u>438,811</u>
TOTAL	13,674,883	13,674,883	3,197,761

Annual Cost of Burden to Respondents

Section 601.10 – Preferred lender arrangement disclosures.

We estimate that 1,342 institutions in the FFEL program will or have entered into preferred lender arrangements. We estimate 2 hours of computer system programming at \$100/hour, for a total estimated cost of \$268,400.

Section 601.11 – Private education loan disclosures and self-certification form.

We estimate that 6,264 institutions meet the definition of a covered institution and therefore potentially will be providing student self-certification forms. As a result, we estimate 1 hour of computer system programming at \$100/hour, for a total estimated cost of \$626,400.

Also, we estimate that 1,757 covered institutions and their institutionally-affiliated organizations will be providing private education loans and therefore adopting TILA compliant disclosures. We estimate 2 hours of computer system programming at \$100/hour, for a total estimated cost of \$351,400.

Section 601.20 – Annual report.

Since institutions with preferred lender arrangements must disclose the data required in the Annual report to prospective and enrolled students and their families, we estimate that the production of an Annual report will not cause any significant costs.

Section 601.21 – Code of conduct.

We estimate that 1,342 covered institutions will need to develop and implement a code of conduct. As a result, we estimate that the affected institutions will require 2 hours of computer system programming at \$100/hour, for a total estimated cost of \$268,400.

Section 601.40 – Lender responsibilities.

Of the 2,527 FFEL lenders, we estimate that 884 will be offering private education loans and therefore required to provide TILA compliant disclosures. We estimate that these lenders will require 2 hours of computer programming at \$100/hour, for an estimated cost of \$176,800.

TOTAL ESTIMATED COSTS: \$1,691,400

13. Start-up Cost Burden to the Respondents

There are no start-up costs associated with these proposed regulatory changes.

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 final regulations as a result of the Negotiated Rulemaking process created additional information collections burden. A summary below is provided:

Respondents, Responses and Burden Hours:

	# of Respondents	# of Responses	#Hrs Burden
Section 601.10 – Preferred lender arrangement disclosures.			
	1,901,950	1,901,950	335,181
Section 601.11 – Private education loan disclosures and self-certification form.			
	4,435,445	4,435,445	1,940,515
Section 601.20 – Annual report.			
	1,342	1,342	336
Section 601.21 – Code of conduct.			
	1,342	1,342	4,697
Section 601.40 – Lender responsibilities.			

	7,334,804	7,334,804	917,032
Current			
Inventory:	# of Respondents	# of Responses	#Hrs Burden
	-0-	-0-	-0-
Revised			
Inventory:	# of Respondents	# of Responses	#Hrs Burden
	13,674,883	13,674,883	3,197,761

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.

Justification of Data Elements: Private Education Loan Applicant Self-Certification Form	
Data Element	Justification
SECTION 1: APPLICANT INFORMATION	
Applicant Name	Used to identify the applicant for the private education loan.
Student Name	Used to identify the student, when the applicant is someone other than the applicant for the private education loan.
Address (including city, state & zip)	Used by the loan holder as the official address for contacting the borrower.
Telephone number (home and other)	Used by the loan holder to contact the borrower if further information is needed to consummate the private education loan.
E-mail address	May be used by the loan holder to contact the borrower if additional information is needed to consummate the private education loan.
Name of school	Required data for the loan holder to know the educational institution for whom the borrower is obtaining the private education loan.

Period of Enrollment Covered by Loan	Required data for both the loan holder and the institution to know the period that the private education loan is intended and so the institution can provide the cost of attendance and the estimated financial assistance for the same period of time.
SECTION 3: COST OF ATTENDANCE & ESTIMATED FINANCIAL ASSISTANCE & SIGNATURE	
Student's Cost of Attendance	Provided by the institution, if known, otherwise provided by the borrower to the loan holder.
Estimated Financial Assistance	Provided by the institution, if known, otherwise provided by the borrower to the loan holder.
Difference between COA – EFA	Used by the private education loan lender to determine the amount of a private education loan. Amounts above this difference may cause a required reduction of other estimated financial assistance.
Signature of Applicant	The borrower's signature is needed to certify that the information provided on the Self-Certification form is true and correct for the purpose of obtaining a private education loan.