

SUPPORTING STATEMENT

Information Collections under the Final Regulations Governing the Student Assistance General Provisions – Subpart B – Standards for Participating in Title IV, HEA Programs

RIN-1840-AD03

A. Justification

1. Necessity of Information Collected

Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

This request is for approval of changes to the policies and procedures for determining the requirements for submission of audited financial statements and compliance audits from foreign schools that participate in Title IV, Higher Education Act of 1965, as amended, (HEA) programs. The final regulations restructure the financial and compliance audit requirements into subparagraph h of section 668.23.

These final regulations help to implement statutory changes made to the audit requirements by the Higher Education Opportunity Act (HEOA), section 493(b) which changes the HEA, section 487(c)(1)(A)(i) by authorizing the waiver of financial and compliance audit requirements for foreign school that receive less than \$500,000 in loan funds in the preceding year, as well as allowing for modifications of the audit requirements for all other foreign schools through regulation.

These final regulations specify the policies and procedures to ensure that sufficient audited financial and compliance audit information is provided to the Department to allow for timely determinations of proper use and oversight of title IV HEA program funds, for those foreign institutions that have U.S. students attending eligible programs and who receive federally insured student loans.

These regulations establish new requirements in 34 CFR 668.23(h) for both audited financial statements and compliance audits for foreign institutions based in part on fiscal year funding received at the school for US students receiving Title IV, HEA program funds. The final regulation in §668.23(h)(1) establishes new audited financial statement submission requirements for foreign institutions receiving Title IV, HEA program funds in the most recently completed fiscal year. The final regulation in §668.23(h)(2) separates foreign institutions into two groups, establishing new compliance audit requirements for foreign schools based upon whether the institution received less than \$500,000 or \$500,000 or more in Title IV, HEA program funds during the institution's most recently completed fiscal year.

2. Purpose and Use of Information Collected

Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

General Provisions - Subpart B – Standards for Participating in Title IV, HEA Programs

(OMB control number 1845-0038)

Section 668.23 – Compliance audits and audited financial statements.

The final regulation in §668.23(h)(1) establish new audited financial statement submission requirements for foreign institutions receiving Title IV, HEA program funds in the most recently completed fiscal year. Foreign institutions that receive less than \$500,000 in title IV loan funds have the annual audited financial statement submission requirement waived. Foreign institutions who receive at least \$500,000 but less than \$3,000,000 in title IV loan funds are allowed to submit home country audited financial statements, in English, in lieu of the financial statement performed in accordance with United States Generally Accepted Accounting Principles (U.S. GAAP). Foreign institutions who receive at least \$3,000,000 but less than \$5,000,000 in title IV loan program funds, are required to continue to submit a financial statement prepared in accordance with US GAAP once every three years and is allowed to submit home country audited financial statements, in English, in lieu of the financial statement performed in accordance with US GAAP for the two years in between the US GAAP submission. For foreign schools who receive at least \$10,000,000 are required to annually submit financial statements prepared in accordance with US GAAP, in English.

The final regulation in §668.23(h)(2) separate foreign institutions into two groups, establishing new compliance audit requirements for foreign schools based upon whether the institution received less than \$500,000 or \$500,000 or more in Title IV, HEA program funds during the institution’s most recently completed fiscal year. Foreign institutions that receive less than \$500,000 in title IV loan funds are required to submit an alternative compliance audit performed in accordance with the Foreign School Audit Guide from the Department’s Office of Inspector General. This alternate compliance audit is narrower in scope than the standard audit. Foreign institutions that receive at least \$500,000 are required to submit a standard compliance audit performed in accordance with the audit guide from the Department’s Office of Inspector General.

3. Consideration of Improved Information Technology

Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration given to using technology to reduce burden.

Institutions may use computer and Internet technology to image, transmit, and receive the supporting documents.

4. Efforts to Identify Duplication

Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

There is no duplication of data as a result of the collection of this information.

5. Burden Minimization as Applied to Small Business

If the collection of information impacts small businesses or other small entities (Item 8b of IC Data Part 2), describe any methods used to minimize burden.

No small businesses are impacted by this collection.

6. Consequences of Less Frequent Data Collection

Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The statute requires that institutions who meet specific criteria must provide both audited financial statements and compliance audits. Audits not received by the specified interval could risk funds being disbursed to students at institutions that do not meet eligibility requirements.

7. Special Circumstances Governing Data Collection

Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or that unnecessarily impedes sharing of data with other agencies for compatible confidential use;**
- **or requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This information collection requirement is consistent with all of the guidelines in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The Department of Education (Department) announced in a September 9, 2009 Federal Register notice (74 FR 46399), the Department's intention to establish negotiated rulemaking committees to prepare proposed regulation under Title IV of the HEA. These committees were formed as a result of a Federal Register notice published on May 26, 2009 (74 FR 24728) which announced a series of three regional hearings at which interested parties could comment on topics suggested by the Department and suggest additional topics for consideration. The topics of "United States Generally Accepted Accounting Principles (U.S. GAAP) financial statements" and "Compliance audits" were among the list of issues listed by the Department for Team II Foreign Schools.

The Notice of Proposed Rulemaking (NPRM), 1840-AD03, was published in the Federal Register, July 20, 2010 (75 FR 42190) seeking public comment. No public comments were received under the Paperwork Reduction Act (PRA).

9. Payments or Gifts to Respondents

Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to the respondents.

10. Assurance of Confidentiality

Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided to institutions for the submission of this information.

11. Questions of a Sensitive Nature

Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The Department is not requesting any sensitive data.

12. Annual Hour Burden for Respondents/Recordkeepers

Provide estimates of the hour burden of the collection of information. The statement should :

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in item 16 of IC Data Part 1.**

Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

The additional burden hours calculated below include time for reviewing the change in regulations; for determining the method and means to incorporate changes; develop or update systems and forms and formats for gathering the required information; and to prepare the required reports.

This regulatory change is due to a statutory change from the HEOA, section 493(b) which effects the HEA section 487(c)(1)(A)(i). These changes are for reporting required eligibility data.

Section 668.23 – Compliance audits and audited financial statements.

§668.23(h)(1) – Audited financial statements.

Translations to English of financial statements

<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u># of Burden Hours</u>
Private institutions			
20	20	X 35	700
Public institutions			
16	16	X 35	560
TOTAL			
36	36		1,260

§668.23(h)(1) – Audited financial statements.

US GAAP preparation for financial statements

<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u># of Burden Hours</u>
Private institutions			
-21	-21	X 100	-2,100
Public institutions			
-70	-70	X 100	-7,000
TOTAL			
-91	-91		-9,100

§668.23(h)(2) – Compliance audits.

Compliance audits under alternate standards

<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u># of Burden Hours</u>
Private institutions			
-81	-81	X 15	-1,215
Public institutions			
-269	-269	X 15	-4,035
TOTAL			
-350	-350		-5,250

GRAND TOTAL FOR REGULATORY CHANGES

-405	-405	-13,090
CURRENT REGULATORY TOTALS		
23,327	1,032,413	965,878
<i>GRAND TOTAL FOR CURRENT AND FINAL REGULATORY CHANGES</i>		
22,922	1,032,008	952,788

For additional information, please see the supplementary document “OMB 1845-0038 v9 Table”.

13. Start-Up Cost Burden to the Respondents

Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and acquiring and maintaining record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

Total Annualized Capital/Startup Cost :

Total Annual Costs (O&M) :

Total Annualized Costs Requested :

There is no new system start-up costs associated with these final regulations.

14. Estimated Annual Cost to the Federal Government

Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

There are no additional costs to the Federal government as a result of the final regulation.

15. Reasons for Changes to Burden Hour Estimated

Explain the reasons for any program changes or adjustments to #16f of the IC Data Part 1 Form.

These regulations incorporate changes based on statutory changes from the HEOA to current regulations regarding the requirement for and timelines of submissions of audited financial statements and compliance audits from foreign schools based in part on fiscal year funding received at the school for US students receiving Title IV, HEA program funds. The burden changes are a result of final changes to help clarify which institutions are required to provide audited financial statements and compliance audits and at what level the reporting is needed.

The burden changes are a result of final changes to regulations to help to clarify which institutions are required to provide audited financial statements and compliance audits and at what level the reporting is needed. A summary is provided below.

# of Respondents	# of Responses	# of Burden Hours
<u>Section 668.23(h)(1) – Audited financial statements.</u>		
20	20	700
-102	-102	-3,315
<u>Section 668.23(h)(2) – Compliance audits.</u>		
16	16	560
-339	-339	-11,035
<u>Current Inventory</u>		
23,327	1,032,413	965,878

TOTAL

22,922

1,032,008

952,788

This regulatory change is due to a statutory change from the HEOA, section 493(b) which effects the HEA section 487(c)(1)(A)(i). These changes are for reporting required eligibility data.

16. Collection of Information with Published Results

For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The results of the collection of information will not be published.

17. Approval to Not Display Expiration Date

If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Department is not seeking this approval. The OMB Expiration dates will be displayed in the Federal Register once approved.

18. Exception to the Certification Statement

Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.

The Department is not requesting any exceptions to the “Certification of Paperwork Reduction Act Submissions”.