

SUPPORTING STATEMENT

Information Collections under the Notice of Proposed Rulemaking Governing Student Assistance General Provisions -

RIN 1840-AD10

Justification

1. 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.

Necessity of Information Collected

Section 487(c) of the Higher Education Act (HEA) of 1965, as amended requires that the Secretary of Education prescribe regulations to ensure that any funds postsecondary institutions receive under the HEA are used solely for the purposes specified in and in accordance with the provision of the applicable programs. Further, Part H, Subpart 3, Section 498 of the HEA of 1965, as amended, gives the Secretary the responsibility for determining qualifications of institutions of higher education to participate in programs under the HEA. To comply with this requirement, Section 498(b) of the Higher Education Act, specified that the Secretary prepare and prescribe a single application form. The Department developed the Application for Approval to Participate in the Federal Student Financial Aid Programs to comply with the statutory requirements of collecting necessary information under the HEA.

An institution must use this Application to apply for approval to be determined to be eligible and if the institution wishes, to participate; to expand its eligibility; or to continue to participate in the Title IV programs. An institution must also use the application to report certain required data as part of its recordkeeping requirements contained in the regulations under 34 CFR Part 600 (Institutional Eligibility under the Higher Education Act of 1965, as amended).

The current regulations in §600.20(d) provide that, when an institution seeks to establish the eligibility of an additional program that leads to gainful employment, as described under 34 CFR 668.7(a)(2)(i), the institution must apply to the Secretary under paragraph (d)(3) of this section only if the additional program is the same as, or substantially similar to, a program that was a failing program, under §668.7(h), that was voluntarily discontinued by an institution, or became an ineligible program, or substantially similar to a program designated as a failing program for any one of the two most recent fiscal years. For this purpose, an institution discontinues a failing program on the date the institution provides written notice to the Secretary that it relinquishes the Title IV, HEA program eligibility of that program and can only reestablish eligibility for the failing program under paragraph (d)(2)(iii)(B) of this section. For the purposes

of this section, an additional program is substantially similar if it has the same credential level and the same first four digits of the CIP code as that of the failing or ineligible program.

The proposed changes to 34 CFR part 600 are designed to limit the new gainful employment programs for which an institution must apply to the Department for approval to programs that are the same or substantially similar to a failing program that was voluntarily discontinued by the institution or became ineligible under the debt measures, or a program that is substantially similar to a program designated as a failing program for any two most recent fiscal years. These proposed changes also include additional reporting that must be submitted as a part of the new gainful employment program application process.

In addition, since the time of the Gainful Employment – New Programs final regulations were published on October 29, 2010, we have continued to seek additional data about gainful employment programs within Federal Student Aid (FSA). FSA’s Program Compliance office has been tracking nondegree gainful employment programs during 2009 and 2010. As a result, we intend to recalibrate the original amount of burden associated with the current notification process using this new data source.

- 2. 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.**

Purpose and Use of Information Collected

The department uses the information collected to approve or recertify an institution for eligibility to receive Title IV funds.

Institutional Eligibility - Subpart B – Procedures for Establishing Eligibility

(OMB control number 1845-0012)

Section 600.20 – Application procedures for establishing maintaining, or expanding institutional eligibility and certification.

RIN 1840-AD10

These proposed regulations in §600.20(d) eliminate the current notification requirements in favor of a more streamlined approach under which an institution would apply to establish the eligibility of a gainful employment program. Under proposed §600.20(d)(2), an institution that seeks to establish the eligibility of a gainful employment program must submit an application to the Department only if that program (1) is the same as, or substantially similar to, a failing program that was voluntarily discontinued by the institution under 34 CFR 668.7(l)(1) or a program that became ineligible for title IV, HEA program funds under 34 CFR 668.7(i), or (2) is substantially similar to a program designated as a failing program under 34 CFR 668.7(h) for any one of the two most recent fiscal years (FYs), otherwise known as a “Must Apply Program”. For this purpose, a program is substantially similar if it has the same credential level and the same first four digits of the CIP code as that of a failing program, a failing program the institution

voluntarily discontinued, or an ineligible program. In proposed §600.20(d)(3), while we are not proposing to change the core requirements under current §600.20(d)(2)(i), (d)(2)(ii), (d)(2)(iii), or (d)(2)(iv), we would augment those requirements by having the institution report in its application:

A wage analysis of the new program performed by or on behalf of the institution.

A description of the enhancements or modifications the institution made to improve the new program's performance under the gainful employment standards in 34 CFR 668.7(a); and

Provide the CIP code and credential level of the new program, along with a description of how the institution determined that CIP code.

Before making a determination about the new program application, the Department may request additional information from the institution. We have determined that the resolution of these new program applications fall into two categories, those where minor additional information is required (that can usually be resolved through a phone call or an e-mail to institutional staff) and those where substantive additional information is required to be reported to the Department.

3. 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.

Consideration of Improved Information Technology

Under these proposed regulations, when institutions apply for approval of new gainful employment programs that are the same or substantially similar to a failing program, the application is made, in part, by using the Department's e-APP electronic application system. The current and proposed reporting requirements include submitting documentation from the institution's accrediting agency or recognized State agency that the program has been approved by that accrediting entity, therefore, some portion of the application may include the institution's mailing of copies of approval letters. However, more and more institutions are attaching digitized (pdf) versions of paper documents and sending these to the Department via the Internet due to the high speed and low cost of the transmission over the regular mail.

4. 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.

Efforts to Identify Duplication

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

5. 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.

Burden Minimization as Applied to Small Business

Data from the Integrated Postsecondary Education Data System (IPEDS) indicate that roughly 4,379 institutions participating in the Federal student assistance programs meet the definition of “small entities.” Approximately two-thirds of these institutions are for-profit schools that would be subject to these proposed regulations. Other affected small institutions include small community colleges and tribally controlled schools.

We estimated in the Gainful Employment--Debt Measures final regulations that approximately 3 percent of programs at small entities across all sectors would fail the measures at least once. The changes to the process for establishing new gainful employment programs that are proposed in the newly published NPRM would eliminate the notice requirement for the vast majority of programs at small entities because most gainful employment programs offered at those institutions are expected to pass the gainful employment measures. For institutions that choose to pursue establishing the title IV, HEA eligibility for a new program associated with a program that failed the gainful employment measures, the proposed regulations consolidate the notice and application process from the Gainful Employment--New Programs regulations and build on existing processes for determining if the Department will approve the new program.

Institutions would only have to apply to establish gainful employment programs that are the same as or substantially similar to programs that are ineligible or that have been voluntarily withdrawn or programs that are substantially similar to failing programs. There are no explicit growth limitations or employer verification requirements. The proposed regulations are unlikely to conflict with or duplicate existing Federal regulations.

6. 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.

Consequences of Less Frequent Data Collection

The requirement to have institutions apply for the approval of new gainful employment programs that are the same or substantially similar to failed or ineligible programs is important to help insure that the changes made to the new program is substantially improved, otherwise it too may become another failing or ineligible program. However, through these proposed regulations the Department is eliminating the burden in the current regulations where institutions associated with the current notification requirements for all new gainful employment programs at least 90 days prior to the beginning the new program. The proposed application process that is limited to new gainful employment programs that are the same or similar to failed or ineligible gainful employment programs will be focused on programs where there have been problems and otherwise not impede the development of new programs where there is no indication of failure, thus program integrity is maintained and balanced with targeting additional burden where there is evidence of prior programmatic challenges.

7. 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.

Special Circumstances Governing Data Collection

This requirement is consistent with the guidelines in 5 CFR 1302.5(d)(2).

8. 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.

Consultation Outside the Agency

The Department of Education (Department) announced in a May 26, 2009 Federal Register notice (74 FR 24728), its intention to establish negotiated rulemaking committees to prepare proposed regulation under Title IV of the HEA and 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 committees were formed as a result of a Federal Register notice published on September 9, 2009 (74 FR 46399) which announced the specific topics suggested by the Department and the public during the hearings and based on statutory changes. Team I – Program Integrity Issues included “Gainful employment in a recognized occupation”.

Final Regulations were published on October 29, 2010 (see 75 FR 66665) Gainful Employment – New Programs. A 45 day comment period has been provided under the NPRM for Program Integrity: Gainful Employment which was published on September 27, 2011 (see 76 FR 59877).

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

Payments or Gifts to Respondents

No payments or gifts will be provided to the respondents.

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

Assurance of Confidentiality

These requirements do not cover any confidential information.

11. 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.

Questions of a Sensitive Nature

The Department is not requesting any sensitive data.

12. 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.

Annual Hour Burden for Respondents/Recordkeepers

The additional burden hours calculated below include time for reviewing the change in the proposed 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.

The regulatory change in §600.20(d) is a reporting change.

Section 600.20 – Notice and application procedures for establishing maintaining, or expanding institutional eligibility and certification.

I. Resetting the number of new gainful employment programs for Gainful Employment – New Programs (GE 2).

Since the publication of the Gainful Employment – New Program final regulations on October 29, 2010 (see 75 FR 66665) we have continued to analyze the number of nondegree programs that have been submitted to the Department for approval. We intend through this notice of proposed rulemaking to reset our estimate of the number of new gainful employment programs. The Program Compliance office within Federal Student Aid indicates that in 2009, there were 4,852 nondegree programs submitted via the electronic application (e-APP) process. In 2010, there were 3,318 nondegree programs submitted via the e-APP process. As a result, the average annual number of new gainful employment nondegree programs is 4,085 (4,852 plus 3,318 equal 8,170 divided by 2). Therefore, we are resetting the number of nondegree programs from the 1,919 estimated in the Gainful Employment – New Programs final regulations to 4,085 in these proposed regulations. The total number of new nondegree gainful programs by institutional type is as follows; 540 new nondegree programs for proprietary institutions; 433 new nondegree programs for private nonprofit institutions; and 3,112 new nondegree programs for public institutions.

The number of new degree gainful employment programs is not current maintained in our systems. Generally, new degree programs are only required to be reported periodically at the time of recertification. However, when we analyzed the percentage of large nondegree programs used in the June 13, 2011 Gainful Employment – Debt Measures final regulations, we

determined that 55 percent of the gainful employment programs in the proprietary sector are nondegree programs. Thus, the remaining 45 percent are degree programs. We know that the number of new nondegree gainful employment programs at proprietary institutions from above to be 540 and by dividing that number by the percentage of the total number of new nondegree gainful employment programs we have determined that the total number of new gainful employment programs at proprietary institutions to be 982 (540 divided by .55 equal 982). Therefore, the difference or 442 is the projected number of new gainful employment degree programs (982 minus 540 equal 442).

The sum of the number of nondegree gainful employment programs 4,085 and 442 new gainful employment degree programs is 4,527 annually. Using these results as the starting point to reset the total burden associated with the Gainful Employment – New Programs final regulations increases the burden from 3,591 hours in OMB 1845-0012 to 12,343 hours of burden, an increase of 8,752 hours. When the currently approved hours for the Foreign Schools (which did not change) are considered the total number of hours for OMB 1845-0012 are 12,386 hours of burden.

§600.20(d) – Application format.

The calculation of the burden hours is based on the revised number of new programs (degree and nondegree) that are anticipated and the number of individual and grouped submissions required for those new programs through a notification process under the current regulations. The Gainful Employment – New Programs final regulations established that the institution must provide notice prior to offering Title IV, HEA program assistance to eligible students in these new programs at least 90 days prior to the time when the institution plans to offer the new program. The institution's notice to the Department of a new program is in the form of a narrative that explains why and how the new program was designed to meet local market needs or in the case of an online program, regional or national market needs. The notice must indicate how the program was reviewed or approved by, or developed in conjunction with business advisory committees, program integrity boards, public or private oversight or regulatory agencies, and businesses that would employ graduates of the new program. The notice must also describe any wage analysis the institution may have conducted, including any BLS wage data related to the new program. In the event that the Department has concerns about the notice, the Department will send a letter to the institution indicating that the program must receive approval by the Department. In those cases where the program is denied, the institution will have the opportunity to submit a response to the Department's concerns and provide any additional information that may be useful if the institution requests reconsideration of the denial.

New nondegree program submissions –

We have revised our estimate from 914 new nondegree programs using Program Compliance data to 4,085 new nondegree programs offered that train students for gainful employment in a recognized occupation that will submit a notice for approval of the programs to the Department.

<u># of New programs</u>	<u># of Submissions</u>	<u>Hrs/Submission</u>	<u># of Burden Hours</u>
Proprietary institutions			
540	540	X 2.5	1,350

Private nonprofit institutions

433	433	X 2.5	1,083
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Public institutions

3,112	3,112	X 2.5	7,780
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Sub-total for new nondegree program submissions:

4,085	4,085		10,213
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New degree program submissions –

Using Program Compliance data and the analysis of small and large gainful employment programs for Gainful Employment – Debt Measure final regulations published June 13, 2011, we estimate that there will be 442 new degree programs offered by proprietary institutions that train students for gainful employment in a recognized occupation that will submit a notice for approval of the programs to the Department. Our recent experience indicates that we are only receiving single applications, therefore we have revised this section to eliminate our projection of multiple submissions of new degree programs.

<u># of New programs</u>	<u># of Submissions</u>	<u>Hrs/Submission</u>	<u># of Burden Hours</u>
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Proprietary institutions

442	442	X 1.75	774
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Sub-total for new degree program submissions:

442	442		774
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TOTAL FOR NEW NONDEGREE AND DEGREE PROGRAM SUBMISSIONS

4,527	4,527		10,987
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Additional Information submissions to support the application:

Upon initial review of the institution's narrative application, the Department will contact the institutions whose notice was not complete prior to denying a new program and identify concerns and permit the institution to supplement its notification with additional information. We anticipate that 10 percent of all submissions identified above will be requested and provide the additional information.

New Nondegree programs:

We have revised our number of new nondegree programs where additional information is required from 92 new nondegree programs to 4,085 new nondegree gainful employment

programs based upon the Program Compliance data that will train students for gainful employment in a recognized occupation and who will be requested will provide additional information to the Department.

<u># of New programs</u>	<u># of Submissions</u>	<u>Hrs/Submission</u>	<u># of Burden Hours</u>
Proprietary institutions:			
540	54	X 3	162
Nonprofit institutions:			
433	43	X 3	129
Public institutions:			
<u>3,112</u>	<u>311</u>	<u>X 3</u>	<u>933</u>
Sub-total:			
4,085	408		1,224

New Degree programs:

We have revised our number of new degree programs from 101 to 442 using the Program Compliance data. It is anticipated that for this information collection there will be 442 new degree programs offered by proprietary institutions that train students for gainful employment in a recognized occupation that will provide additional information to the Department. Our recent experience indicates that we are only receiving single applications, therefore we have revised this section to eliminate our projection of multiple submissions of new degree programs.

<u># of New programs</u>	<u># of Submissions</u>	<u>Hrs/Submission</u>	<u># of Burden Hours</u>
Proprietary institutions			
442	44	X 3	132
Sub-total:			
442	44		132

TOTAL ADDITIONAL INFORMATION FOR THE REVISED (OMB 1845-0012.v.7.a) NEW NONDEGREE AND DEGREE PROGRAM SUBMISSIONS USING PROGRAM COMPLIANCE DATA:

9,054	4,979		12,343
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CURRENTLY APPROVED BURDEN FOR OMB 1845-0012.v.7:

5,469	6,086	24,815
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Burden attributable to the gainful employment regulations in OMB 1845-0012.v.7 that is being revised:

34 CFR 600.20(d):

-1,919	-1,383	-3,174
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34 CFR 600.20(i):

<u>- 193</u>	<u>- 139</u>	<u>- 417</u>
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Difference:

3,357	4,564	21,224
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Add the Total Additional Information for the revised version 7.a of the collection for the new nondegree and degree program submissions using the Program Compliance data:

<u>9,054</u>	<u>4,979</u>	<u>12,343</u>
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REVISED NEW NONDEGREE AND DEGREE PROGRAM SUBMISSIONS USING PROGRAM COMPLIANCE DATA (OMB 1845-0012.v.7.a):

12,411	9,543	33,567
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II. Burden associated with these proposed regulations.

§600.20(d) – Application requirements.

In proposed §600.20(d)(3), while we are not proposing to change the core requirements under current §600.20(d)(2)(i), (d)(2)(ii), (d)(2)(iii), or (d)(2)(iv), we propose to augment those requirements by having the institution include the following additional information in its application: (1) a wage analysis of the new program performed by or on behalf of the institution, (2) a description of the enhancements or modifications the institution made to improve the new program's performance under the gainful employment standards in 34 CFR 668.7(a) (§600.20(d)(3)(vi)); and (3) the reporting of the CIP code, credential level, along with a description of how the institution determined that CIP code (§600.20(d)(3)(vii)).

Under these proposed regulations in §600.20(d)(3), the approval process is streamlined and limited to gainful employment programs for which an institution must apply to the Department to those programs that are (1) the same as, or substantially similar to, failing programs that the institution voluntarily discontinued or programs that became ineligible under the debt measures for gainful employment programs, and (2) programs that are substantially similar to failing programs. As a result, there will be fewer submissions for approval of new programs under these proposed regulations, rather than the current notification requirements that apply to all new gainful employment programs.

Nondegree Programs – Total Burden. In the Gainful Employment--New Programs final regulations, we estimated that annually there would be 914 new nondegree program established on an annual basis. With respect to the application requirements, we do anticipate a small additional amount of burden associated with the collection of a description of the enhancements or modification the institution made to improve the new program's performance in proposed §600.20(d)(3)(vi) and the requirement that an application must include the CIP code, the credential level, and a description of how the institution determined the CIP code in proposed §600.20(d)(3)(vii). As a result of these proposed changes, we expect the per unit burden for each submission to increase from an average of 2.5 hours to 3 hours per submission. Using our revised number of new nondegree gainful employment programs, we recognized that a significant number of programs will never fail the gainful employment debt measures due to the small number exception under §668.7(d), so we have made that downward adjustment to the number of affected programs. Of that remaining number of affected programs we have multiplied the remaining number of affected programs by the weighted average percentage of failing or ineligible programs to obtain the number of affected programs by sector.

The amount of burden we are estimating for each of these sectors under these proposed regulations follows:

Nondegree Programs – Proprietary Institutions.

Based on the Gainful Employment--Debt Measures final regulations analysis in Table 9-A (76 FR 34386, 34474) (Table 9-A), we estimate that there are 7,213 existing gainful employment nondegree programs at proprietary institutions (13,114 total gainful employment programs times 55 percent that are nondegree programs equals 7,213 nondegree programs). Based upon the Gainful Employment--Debt Measures final regulations analysis in Table 1 (76 FR 34386, 34457) (Table 1), we project that 39.5 percent of existing nondegree programs at proprietary institutions will be exempt from the debt measures because they have 30 or fewer borrowers or completers and that the remaining 60.5 percent of the gainful employment nondegree programs will be subject to the debt measures; therefore, 4,364 nondegree programs (7,213 times 0.605 equals 4,364) will be subject to the debt measures. Table 9-A indicates that 18 percent of proprietary nondegree programs will fail or become ineligible for a total of 786 programs (4,364 times 0.18 equals 786). Therefore, for the reasons discussed previously, we estimate that proprietary institutions would apply for approval for 786 new gainful employment nondegree programs under proposed §600.20(d). We estimate that on average, each application would take 3 hours to prepare and submit to the Department; therefore, the total amount of burden for proprietary institutions to submit applications for new gainful employment nondegree programs would equal 2,358 hours under OMB control number 1845-0012.

Nondegree Programs – Private Nonprofit Institutions.

Based on the analysis in Table 9-A, we estimate that there are 2,790 existing gainful employment nondegree programs at private nonprofit institutions (5,073 total gainful employment programs times 55 percent that are nondegree programs equals 2,790 nondegree programs). Based upon the analysis in Table 1, we project that 75.6 percent of these programs will be exempt from the debt measures because they have 30 or fewer borrowers or completers and that 24.4 percent of

these programs will be subject to the debt measures. Therefore, 681 gainful employment nondegree programs at private nonprofit institutions (2,790 times 0.244 equals 681) will be subject to the debt measures. Table 9-A indicates that 5 percent of these programs will fail or become ineligible for a total of 34 programs (681 times 0.05 equals 34). Therefore, for the reasons discussed previously, we estimate that private nonprofit institutions would apply for approval for 34 new gainful employment nondegree programs under proposed §600.20(d)(2). We estimate that, on average, each application would take 3 hours to prepare and submit to the Department; therefore, the total burden for private nonprofit institutions to submit applications for new gainful employment nondegree would equal 102 hours under OMB control 1845-0012.

Nondegree Programs – Public Institutions.

Based upon the analysis in Table 9-A, we estimate that there are 20,470 existing gainful employment nondegree programs at public institutions (37,218 total gainful employment programs times 55 percent that are nondegree programs equals 20,470 nondegree programs). Based upon the analysis in Table 1, we project that 68.1 percent of these programs will be exempt from the debt measures because they have 30 or fewer borrowers or completers and that the remaining 31.9 percent of these programs will be subject to the debt measures; therefore, 6,530 nondegree programs at public institutions (20,470 times 0.319 equals 6,530) will be subject to the debt measures.

Table 9-A indicates that 3 percent of gainful employment nondegree programs at public institutions will fail or become ineligible for a total of 196 programs (6,530 times 0.03 equals 196). Therefore, for the reasons discussed previously, we estimate that public institutions would apply for approval for 196 gainful employment nondegree programs under proposed §600.20(d)(2). We estimate that, on average, each application would take 3 hours to prepare and submit to the Department; therefore, the total amount of burden for public institutions to submit applications for new gainful employment nondegree programs would equal 588 hours under OMB control number 1845-0012.

Collectively, we project that the annual burden for the submission of applications for new gainful employment nondegree programs under proposed §600.20(d) would be 3,048 hours under OMB 1845-0012.

Affected Entities:

Proprietary Institutions:

Respondents:	Responses:	Hours/submission:	Burden Hours:
786	786	3	2,358

Private Nonprofit Institutions:

Respondents:	Responses:	Hours/submission:	Burden Hours:
34	34	3	102

Public Institutions:

Respondents:	Responses:	Hours/submission:	Burden Hours:
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196	196	3	588
Sub-total:			
Respondents:	Responses:	Hours/submission:	Burden Hours:
1,016	1,016 *	3	3,048 **

* A reduction from 4,085 to 1,016 responses or -3,069 responses.

** A reduction from 10,213 hours to 3,048 hours or -7,165 hours.

Degree Programs.

Based upon the analysis in Table 9-A, we estimate that there are 5,901 existing gainful employment degree programs at proprietary institutions (13,114 total gainful employment programs at proprietary institutions times 45 percent that are degree programs equals 5,901 degree programs). Based upon the analysis in Table 1, we project that 39.5 percent will be exempt from the debt measures because they have 30 or fewer borrowers or completers and that the remaining 60.5 percent of these programs will be subject to the debt measures; therefore, 3,570 degree programs (5,901 times 0.605 equals 3,570) will be subject to the debt measures.

Table 9-A indicates that 18 percent of degree programs at proprietary schools will fail or become ineligible for a total of 643 programs (3,570 times 0.18 equals 643). Therefore, for the reasons described previously, we estimate that proprietary institutions would apply for approval for 643 new gainful employment degree programs under proposed §600.20(d)(2).

As indicated previously, given the additional items that an institution must include in its application, we have adjusted the amount of burden per submission; therefore, we estimate that the average amount of time to prepare and submit the application would increase from 1.75 hours, as described in the Gainful Employment--New Programs final regulations, to 2.25 hours per submission under these proposed regulations.

We estimate that the burden for institutions to submit individual applications for 643 new degree programs would be 1,447 hours (643 individual submissions times 2.25 hours per submission equals 1,447 hours) under OMB control number 1845-0012. Collectively, we estimate that the annual burden on proprietary institutions for gainful employment degree program submissions under proposed §600.20(d) would be 1,447 hours under OMB control number 1845-0012.

Affected Entities:

Proprietary Institutions:

Respondents:	Responses:	Hours/submission:	Burden Hours:
643	643	2.25	1,447
Sub-total:			
Respondents:	Responses:	Hours/submission:	Burden Hours:
643	643 *		1,447 **

* An increase from 442 to 643 responses or + 201 responses.

** An increase from 774 hours to 1,447 hours or + 673 hours.

§600.20(d)(4)(ii)

The proposed regulations in §600.20(d)(4)(ii) provide that the Secretary may request additional information from an institution that has submitted an application for approval of a new program before making an eligibility determination. Therefore, we have estimated the amount of reporting burden associated with providing the additional information. As we did with our analysis of the burden under proposed §600.20(d)(3), we provide the following sector-by-sector analysis of the burden for nondegree programs under the provisions of §600.20(d)(4)(ii).

Nondegree Programs – Proprietary Institutions.

As noted previously, we estimate that proprietary institutions would apply for approval for 786 new gainful employment nondegree programs under proposed §600.20(d). We further estimate that of those 786 new programs, the Secretary will request additional information for 24 percent. We estimate that for 10 percent of the applications, the request will be for minor clarifications and would likely be resolved through a phone call or e-mail to institutional staff. The additional increase in burden associated with these minor clarifications would average an additional 0.5 hours per contact for a total increase of 40 hours under OMB control number 1845-0012 (786 applications times 0.1 equals 79 requests for minor clarifications, times 0.5 hours per request equals 40 hours).

We estimate that for 14 percent of the applications, an institution would have to submit substantive additional information in response to the Secretary's request. The additional increase in burden associated with responding to a request for additional substantive information would average an additional 3 hours per request for a total increase of 330 hours under OMB control number 1845-0012 (786 applications times 0.14 equals 110 requests for substantive additional information, times 3 hours per request equals 330 hours).

Nondegree programs – Private Nonprofit Institutions.

As noted previously, we estimate that private nonprofit institutions would apply for approval for 34 new gainful employment nondegree programs under proposed §600.20(d)(2). We further estimate that of those 34 new programs, the Secretary will request additional information for 24 percent. We estimate that for 10 percent of the applications, the request will be for minor clarifications and would likely be resolved through a phone call or e-mail to institutional staff. The additional increase in burden associated with these minor clarifications would average an additional 0.5 hours per contact for a total increase of 2 hours under OMB control number 1845-0012 (34 applications times 0.10 equals 3 requests for minor clarifications times 0.5 hours per request equals 2 hours).

We estimate that for 14 percent of the applications, an institution would have to submit substantive additional information in response to the Secretary's request. The additional increase in burden associated with responding to a request for additional substantive information would average an additional 3 hours per request for a total increase of 15 hours under OMB control number 1845-0012 (34 applications times 0.14 equals 5 requests for substantive additional information, times 3 hours per request equals 15 hours).

Nondegree Programs – Public Institutions.

As noted previously, we estimate that public institutions would apply for approval for 196 new gainful employment nondegree programs under proposed §600.20(d)(2). We further estimate that of those 196 new programs, the Secretary will request additional information for 24 percent. We estimate that for 10 percent of the applications, the request will be for minor clarifications and would likely be resolved through a phone call or e-mail to institutional staff. The additional increase in burden associated with these minor clarifications would average an additional 0.5 hours per contact for a total increase of 10 hours under OMB control number 1845-0012 (196 applications times 0.10 equals 20 requests for minor clarifications, times 0.5 hours per request equals 10 hours).

We estimate that for 14 percent of the applications, an institution would have to submit additional substantive information in response to the Secretary's request. The additional increase in burden associated with responding to a request for additional substantive information would average an additional 3 hours per request for a total increase of 81 hours under OMB control number 1845-0012 (196 applications times 0.14 equals 27 requests for substantive additional information, times 3 hours per request equals 81 hours).

Collectively, we estimate that the annual burden hours associated with the submission of additional information after being contacted by the Department regarding new gainful employment nondegree programs would be 478 hours under OMB control number 1845-0012.

Affected Entities:

Proprietary Institutions:

	Respondents:	Responses:	Hours/submission:	Burden Hours:
10%	786	79	0.5	40
14%		110	3.0	330

Private Nonprofit Institutions:

	Respondents:	Responses:	Hours/submission:	Burden Hours:
10%	34	3	0.5	2
14%		5	3.0	15

Public Institutions:

	Respondents:	Responses:	Hours/submission:	Burden Hours:
10%	196	20	0.5	10
14%		27	3.0	81

Sub-total:

	Respondents:	Responses:	Hours/submission:	Burden Hours:
	1,016	244		478

- * A reduction from 408 to 244 responses or -164 responses.
- ** A reduction from 1,224 hours to 477 hours or -746 hours.

Degree Programs.

As stated previously, we estimate that proprietary institutions would apply for approval of 643 new gainful employment degree programs under proposed §600.20(d)(2). We further estimate that of those 643 new programs, the Secretary will request additional information for 24 percent. We estimate that for 10 percent of the applications, the request will be for minor clarifications and would likely be resolved through a phone call or e-mail to institutional staff. The additional increase in burden associated with these minor clarifications would average an additional 0.5 hours per contact for a total increase of 32 hours under OMB control number 1845-0012 (643 applications times 0.10 equals 64 requests for minor clarifications, times 0.5 hours per request equals 32 hours). We estimate that for 14 percent of the applications, an institution would have to submit substantive additional information in response to the Secretary’s request. The additional increase in burden associated with responding to a request for additional substantive information request would average an additional 3 hours per request for a total increase of 270 hours under OMB control number 1845-0012 (643 applications times 0.14 equals 90 requests for substantive additional information, times 3 hours per request equals 270 hours).

Collectively, we estimate that the annual burden hours associated with the submission of additional information after being contacted by the Department regarding new degree programs would be 302 hours under OMB control number 1845-0012.

Affected Entities:

Proprietary Institutions:

	Respondents:	Responses:	Hours/submission:	Burden Hours:
10%	643	64	0.5	32
14%		90	3.0	270
Sub-total:				
	Respondents:	Responses:	Hours/submission:	Burden Hours:
	643	154		302

- * An increase from 44 to 154 responses or + 110 responses.
- ** An increase from 132 hours to 302 hours or +170 hours.

TOTAL FOR THESE PROPOSED REGULATIONS

REDUCTIONS:

Respondents:	Responses:	Burden Hours:
9,054	-2,922	-7,068

REVISED NEW NONDEGREE AND DEGREE PROGRAM SUBMISSIONS USING PROGRAM COMPLIANCE DATA (OMB 1845-0012.v.7.a).:

12,411	9,543	33,567
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REVISED TOTAL OMB 1845-0012.v.8):

21,465	6,621	26,499
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For additional information, please see the supplementary documents OMB 1845-0012.v.7.a and OMB 1845-0012.v.8 tables.

13. 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.

Our cost estimate to write 609 written notices to the Secretary for an executive secretary at a hourly rate equal to a GS-11, Step 1 of \$29.93 to prepare the written notice for an institution's executive's signature (estimated to take .25 hours per notice) to cost \$4,557. We assume there would not be an additional cost for stationary, envelopes, and postage since we expect that this notice will be sent to the Secretary via e-mail through the Internet.

Total Annualized Capital/Startup Cost : 0

Total Annual Costs (O&M) : \$0

Total Annualized Costs Requested : \$0

Start-Up Cost Burden to the Respondents

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

14. 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.

Estimated Annual Cost to the Federal Government

There are no additional costs to the Federal government as a result of these regulations.

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

Reasons for Changes to Burden Hour Estimated

The final regulations in §600.20(d) provide that, when an institution seeks to establish the eligibility of an additional program that leads to gainful employment, as described under 34 CFR 668.7(a)(2)(i), the institution must apply to the Secretary under paragraph (d)(3) of this section only if the additional program is the same as, or substantially similar to, a program that was a failing program, under §668.7(h), that was voluntarily discontinued by an institution, or was an ineligible program. For this purpose, an institution discontinues a failing program on the date the institution provides written notice to the Secretary that it relinquishes the title IV, HEA program eligibility of that program and can only reestablish eligibility for the failing program under paragraph (d)(2)(iii)(B) of this section; or became ineligible for title IV, HEA program funds under 34 CFR 668.7(i); or substantially similar to a failing program under 34 CFR 668.7(h). For the purposes of this section, an additional program is substantially similar if it has the same credential level and the same first four digits of the CIP code as that of the failing or ineligible program. This results in total burden and responses of 26,499 hours and 6,621 responses respectively including an adjustment of 2,913 responses and 11,546 hours. A summary is provided below.

# of Respondents	# of Responses	# of Burden Hours
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CURRENTLY APPROVED BURDEN FOR OMB 1845-0012.v.7:

5,469

6,086

24,815

Burden attributable to the gainful employment regulations in OMB 1845-0012.v.7 that is being revised:

34 CFR 600.20(d):

-1,919	-1,383	-3,174
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34 CFR 600.20(i):

<u>- 193</u>	<u>- 139</u>	<u>- 417</u>
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Difference:

3,357	4,564	21,224
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Add the Total Additional Information for the revised new nondegree and degree program submissions using the Program Compliance data:

<u>9,054</u>	<u>4,979</u>	<u>12,343</u>
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REVISED NEW NONDEGREE AND DEGREE PROGRAM SUBMISSIONS USING PROGRAM COMPLIANCE DATA:

12,411	9,543	33,567
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TOTALS FOR THESE PROPOSED REGULATIONS:

9,054	-2,922	-7,068
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REVISED TOTAL:

21,465	6,621	26,499
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For additional information, please see the supplementary documents OMB 1845.0012.v7.a and OMB 1845-0012.v.8 tables.

16. 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.

Collection of Information with Published Results

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

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

Approval to Not Display Expiration Date

The Department is not seeking this approval. The OMB control number and expiration date will be announced in the Federal Register upon OMB approval and will also be displayed on the *Electronic Application for Approval to Participate in Federal Student Financial Aid Programs*.

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

Exception to the Certification Statement

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