

## **SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION**

### **A. Justification**

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a hard copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information, or you may provide a valid URL link or paste the applicable section<sup>1</sup>. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, make note of the sections or changed sections, if applicable.

The Higher Education Act of 1965, as amended (HEA), established the Federal Family Education Loan (FFEL) Program and the William D. Ford Federal Direct Loan (Direct Loan) Program under Title IV, Parts B and D. Section 493C [20 U.S.C. 1098e] of the HEA authorizes income based repayment for Part B and D borrowers who have a partial financial hardship.

The regulations in 34 CFR 682.215(e)(2) and 685.221(e)(2) establish new required notifications to borrowers from the loan holders once a borrower establishes a partial financial hardship and is placed in an income based repayment (IBR) plan by the loan holder (lender, guaranty agency or the Department).

This is a new information collection. The regulations require new notifications from the loan holder to the borrower. The loan holder will be notifying the borrower about the following information:

- the borrower's scheduled monthly payment amount, and the time period during which that monthly payment amount will apply (annual payment period);
- the requirement for the borrower to annually provide income information (and, in some cases for married FFEL program borrowers, information about the eligible loans of the borrower's spouse) and certify family size;
- if the borrower chooses to remain on the IBR plan after the initial year on the plan, an explanation that the borrower will be notified in advance of the date by which the loan holder must receive this information;
- an explanation of the consequences if the borrower does not annually provide the required information; and
- the borrower's option to request, at any time during the borrower's current annual payment period, that the loan holder recalculate the borrower's monthly payment amount if the borrower's financial circumstances have changed and the income amount that was used to calculate the borrower's current monthly payment no longer reflects the borrower's current income.

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<sup>1</sup> Please limit pasted text to no longer than 3 paragraphs.

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.

Under the regulations, once the loan holder (lender or guaranty agency in the case of a FFEL loan or the Department in the case of a Direct Loan or a FFEL loan held by the Department) makes a determination that the borrower meets the definition of a partial financial hardship, the loan holder would be required to provide the notification indicated above. These new requirements are intended to provide the borrower with critical information about the IBR plan, deadlines, and options.

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.

We estimate that loan holders will utilize automated systems to calculate the borrower's scheduled monthly payment under IBR, and to communicate to the borrower the annual payment period, share information about the required annually providing income information for the borrower (and spouse if married), and how to certify the family size.

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.

These are new notification requirements and do not duplicate other notification requirements, however, this will codify the notifications that some loan holders have been previously providing.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

No small businesses are affected by this information collection.

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.

If these notifications are not conducted the borrower will not have important information to establish IBR repayment, or continue in an IBR plan beyond the initial year.

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.

The collection of this information will be conducted in a manner that does not involve any of the above conditions.

8. As applicable, state that the Department has published the 60 and 30 Federal Register notices as 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.

These regulations were developed through the Negotiated Rulemaking process where the public provided its input both through four preparatory public hearings that occurred in May of 2011. The public hearing were supplemented by a series of three negotiation sessions that took place in Washington, DC from January to March 2012 where members of the public provided their

input during the Negotiated Rulemaking meetings, as required under section 492 of the Higher Education Act of 1965, as amended (HEA).

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

No payments or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the IC Data Form. A confidentiality statement with a legal citation that authorizes the pledge of confidentiality should be provided.<sup>2</sup> If the collection is subject to the Privacy Act, the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentiality of the data.

No assurance of confidentiality is provided to the respondents who will be receiving these notifications as proposed.

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.

While borrowers in an IBR plan will be reminded that they have to submit annual income information to continue in the IBR repayment plan in future years, the notification will just remind the participants of this requirement.

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

- Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden, and an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. All narrative should be included in item 12. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to

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<sup>2</sup> Requests for this information are in accordance with the following ED and OMB policies: Privacy Act of 1974, OMB Circular A-108 – Privacy Act Implementation – Guidelines and Responsibilities, OMB Circular A-130 Appendix I – Federal Agency Responsibilities for Maintaining Records About Individuals, OMB M-03-22 – OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information)

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 the ROCIS IC Burden Analysis Table. (The table should at minimum include Respondent types, IC activity, Respondent and Responses, Hours/Response, and Total Hours)
- 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.

We used the most recent reports on IBR applications examining the number of loans being repaid under IBR being serviced by the Title IV Additional Servicers (TIVAS). We determined that 71 percent of all of the non-defaulted Federal Family Education Loan (FFEL) Program loans are held by the Department and are serviced by the (TIVAS). The remaining 29 percent of the non-defaulted FFELs are being held by commercial for-profit and non-for-profit holders. We applied these percentages to the IBR participation data from the TIVAS, as identified above, and estimate that the annualized number of commercially held loans being repaid under IBR is 290,268. However, the data available does not allow us to further disaggregate this number into affected entities (Public, Private-Not-for-Profit, and Proprietary entities). Therefore we can only identify the estimated number of responses that these entities will provide to borrowers.

Estimated number of annual respondents:	N/A
Number of responses:	290,268
Hours per response:	<u>x</u> 0.08
Annual hour burden:	23,221 hours

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. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Item 12

Total Annualized Capital/Startup Cost:	0
Total Annual Costs (O&M) :	0
Total Annualized Costs Requested :	<hr/> 0

There are minimal capital/startup costs to respondents as they are currently required to make numerous notifications to their borrowers. There are minimal annual costs to respondents associated with operating or maintaining systems or purchasing services.

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.

Total Annualized Capital/Startup Cost:	0
Total Annual Costs (O&M):	0
Total Annualized Costs Requested:	<hr/> 0

There are no capital/startup costs to respondents, nor are there any annual costs to respondents associated with operating or maintaining systems or purchasing services. The cost to the federal government is minimal for these notifications.

15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g.,

changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new, revision, extension, reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).

This is a new information collection based on these final regulations. Under these regulations, loans holders would be required to provide notifications described above to borrowers who are placed into an IBR repayment plan.

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.

The results of this information collection 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.

The Department is not seeking this approval.

18. 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 for Paperwork Reduction Act Submissions.