

SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION

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

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 section¹. 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.

This request is for a revision of the information collection that is expiring for the reporting and recordkeeping requirements contained in the regulations related to the administration of the Institution and Lender Requirements Relating to Education Loans. The regulatory language has not changed. These program regulations are designed to reduce administrative burden for program participants, provide benefits to borrowers, and protect the taxpayers' interest. The information collection requirements in these regulations are necessary to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds.

The Office of Management and Budget (OMB) Information Collection number 1845-0101 currently collects regulatory requirements for sections 34 CFR 601.10, 601.11, 601.20, 601.21, and 601.40 as described below. We are adding section 601.30 to this collection package. The regulatory requirements are described below. We had previously submitted an information collection for this section but it appears that it was not processed to OMB for a collection number.

Additionally, the authority for lenders to make new loans under the Federal Family Education Loan (FFEL) program was terminated as of July 1, 2010 as a result of the Student Aid and Fiscal Responsibility (SAFRA) Act that was included in the Health Care and Reconciliation Act of 2010 (HCERA). There is a slight increase in burden as we are calculating burden for institutions who had previously participated in the FFEL program who may now only participate in the Direct Loan program and those who previously participated in the Direct Loan program only.

¹ Please limit pasted text to no longer than 3 paragraphs.

Section 601.10 – Preferred lender arrangement disclosures.

The regulations require that a covered institution or an institution-affiliated organization of a covered institution that participates in a preferred lender arrangement must provide a variety of disclosures identified on the model disclosure form developed by the Secretary for each type of education loan that is offered pursuant to a preferred lender arrangement.

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

The regulations require that if a covered institution compiles, maintains, and makes available a preferred lender list, the institution must clearly and fully disclose on the preferred lender list why the institution participates in a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and that the students attending the institution, or the families of such students, do not have to borrow from a lender on the preferred lender list.

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

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

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

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

a private educational lender may consummate a private education loan with respect to a student attending an institution of higher education, the lender shall obtain from the applicant for the private education loan, the form developed by the Secretary of Education under section 155 of the Higher Education Act of 1965, signed by the applicant.

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

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

Section 601.20 – Annual report.

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

Section 601.21 – Code of conduct.

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

Section 601.30 – Duties of institutions.

The regulations require a covered institution participating in the William D. Ford Direct Loan Program to make the information identified in the model disclosure form developed by the Secretary available to students attending or planning to attend the institution, or the families of such students. If the institution provides information regarding a private education loan to a prospective borrower, the institution must concurrently provide the borrower with the information identified on the model disclosure form.

Section 601.40 – Lender responsibilities.

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

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

The regulations require any FFEL lender participating in one or more preferred lender arrangements to annually certify to the Secretary, its compliance with the HEA. Lenders required to file an audit under section 682.305(c) must include the certification as part of the audit. A lender that is not required to submit an audit must provide the certification separately.

2. 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.

The Institution and Lender Requirements Relating to Education Loans regulations are maintained by two major groups: lenders and schools. Recordkeeping requirements are imposed to assure accountability of program participants for proper program administration and to justify the payment of funds by the federal government. Not collecting the information described would be likely to result in a loss of billions of dollars of Federal money due to waste, fraud, and abuse. Not collecting the information described would place borrowers of private educational loans at risk.

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.

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

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

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.

A review of procedures indicates that current requirements are minimal and avoid duplication.

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 impacted by this 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.

Recordkeeping requirements are imposed to assure accountability of program participants for proper program administration and less frequent collection could impair accountability of program participants.

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

7. 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 is consistent with the guidelines in 5 CFR 1320.5(d)(2).

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.

This request is for the 30 day comment period inviting public comment. We did receive one comment as of the date of this supporting statement. The comment did not pertain to the calculated burden hours but did suggest minor changes to the form one of which was accepted. The change points applicants to the definitions section of the form to aid in assuring they have an understanding of some of the financial aid terms used on the form.

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

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 the 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.² 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.

A Privacy Act Notice is included on the Free Application for Federal Student Aid completed by each student in order to receive Title IV, HEA program assistance. In this notice, the borrower is informed of the statutory authority for collecting the information requested. Although disclosure of the information is voluntary, the borrower is informed that in order to be considered for Title IV education loan funds, the information must be provided. A listing of the persons and entities to which the information may be disclosed and for what purposes the information may be disclosed is also included.

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

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.

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 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 base hour burden estimates. Consultation with a sample (fewer than 10) of potential

² 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)

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.

Section 601.10 – Preferred lender arrangement disclosures.

We estimate that 1,757 institutions that participate in the loan program (and their institutionally-affiliated organizations) will have preferred lender arrangements. The Department has issued a model disclosure form which institutions will use. We estimate that on average, there will be 1 hour of additional burden per institution for the continued distribution of the Department’s model disclosure form. We estimate that 1,900,608 borrowers will receive this model disclosure form and the burden to each borrower to be .17 hours.

We estimate that each institution with a preferred lender list for which it compiles, maintains, and makes available the list and where the institution explains the terms and conditions of the loans, as well as the selection methodology and criterion of their selection to average 4 hours of burden.

AFFECTED ENTITIES and BURDEN:

INSTITUTIONS:

Burden to maintain model disclosure form use:	1 hour
Burden to compile and maintain the list:	<u>4 hours</u>
Total:	5 hours

1,757 institutions X 5 hours = 8,785 hours

Proprietary Institutions: .05 X 8,785 hours = 439 hours
Private Institutions: .56 X 8,785 hours = 4,920 hours
Public Institutions: .39 X 8,785 hours = 3,426 hours

BORROWERS:

1,900,608 borrowers X .17 hours (10 minutes) = 323,103 hours

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

We estimate that 1,757 covered institutions and their institutionally- affiliated organizations will be providing private education loans and therefore adopting TILA compliant disclosures for all private education loans they offer. We estimate the burden for the continued use of the TILA compliant disclosures to be 3 hours per institution.

The Department has developed a self-certification form for adoption by all covered institutions. We estimate that 3,666,690 borrowers will receive this self-certification form in their pursuit of a private education loan. We estimate the burden to the institution to provide each self-certification form to be .33 hours per form.

We estimate 3,666,960 borrowers of private education loans and we estimate the burden on the borrower to obtain and complete the self-certification form be .25 hours per private loan.

**AFFECTED ENTITIES and BURDEN:
INSTITUTIONS:**

TILA Disclosures:

Burden to use the model disclosure form: 3 hours

1,757 institutions X 3 hours = 5,271 hours

Proprietary Institutions: .05 X 5,271 hours = 263 hours

Private Institutions: .56 X 5,271 hours = 2,952 hours

Public Institutions: .39 X 5,271 hours = 2,056 hours

Completion and Distribution of TILA Disclosures:

3,666,960 private education loans X .33 hours = 1,210,097 hours

Proprietary Institutions: .05 X 1,210,097 hours = 60,505 hours

Private Institutions: .56 X 1,210,097 hours = 677,654 hours

Public Institutions: .39 X 1,210,097 hours = 471,938 hours

BORROWERS:

3,666,960 X .25 hours = 916,740 hours

Section 601.20 – Annual report.

We estimate that 1,757 institutions that participate in the loan program (and their institutionally-affiliated organizations) will have preferred lender arrangements. Since the information to be reported to the Secretary has already been gathered and reported to prospective and enrolled students and their families, we do not anticipate significant additional burden.

**AFFECTED ENTITIES and BURDEN:
INSTITUTIONS:**

1,757 X .25 hour = 439 hours

Proprietary Institutions: .05 X 439 hours = 22 hours
Private Institutions: .56 X 439 hours = 246 hours
Public Institutions: .39 X 439 hours = 171 hours

Section 601.21 – Code of conduct.

We estimate that the average amount of time to maintain the required code of conduct to be 1.5 hours per institution.

**AFFECTED ENTITIES and BURDEN:
INSTITUTIONS:**

1,757 X 1.5 hours = 2,636 hours

Proprietary Institutions: .05 X 2,636 = 132 hours
Private Institutions: .56 X 2,636 = 1,476 hours
Public Institutions: .39 X 2,636 = 1,028 hours

Section 601.30 – Duties of institutions.

This section of the regulations deals with Direct Loan schools exclusively. The figures provided in section 12 of this information collection are for Direct Loan schools as FFEL program loans are no longer being originated.

Section 601.40 – Lender responsibilities.

We estimate that 884 previous FFEL lenders will offer private education loans. We estimate that the required TILA compliant disclosures will increase burden on the lender by .17 hours (10 minutes) per borrower. We estimate there will be 3,666,960 borrowers of private education loans from lenders. We estimate the burden on borrowers to be .08 hours (5 minutes)per loan.

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

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

AFFECTED ENTITIES and BURDEN:

Burden on Lenders for TILA Compliant Disclosures
 3,666,960 X .17 hours/borrower = 623,383 hours

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

BORROWERS:
 3,666,960 X .08 hours/borrower = 293,357 hours

Revised Summary Of Burden On Affected Entities:

	# of Respondents	# of Responses	#Hrs Burden
BORROWERS	9,234,528	9,234,528	1,533,200
PRIVATE SECTOR	972	3,851,544	685,036
NOT FOR PROFIT	984	2,057,434	687,248
STATE/PUBLIC	<u>685</u>	<u>1,432,854</u>	<u>478,619</u>
TOTAL	9,237,169	16,576,360	3,384,103

Current Inventory of Burden On Affected Entities:

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

Difference:

	-4,437,714	2,901,477	187,194
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While there is a slight increase in hours and an increase in responses there is a decrease in respondents to correct double counting of entities in the previous filing.

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	:	
Total Annual Costs (O&M)	:	
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Total Annualized Costs Requested	:	

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

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.

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

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).

The Department is requesting a revision of the current information collection. There has been no change to the required reporting and recordkeeping regulations of the Institution and Lender Requirements Relating to Education Loans. We have calculated an increase in the burden due to a program change caused by a change in the statute. The authority for lenders to make new loans under the Federal Family Education Loan program was terminated as of July 1, 2010 as a result of the Student Aid and Fiscal Responsibility (SAFRA) Act that was included in Public Law 111-152 the Health Care and Reconciliation Act of 2010 (HCERA). We are calculating burden in this collection for institutions who had previously participated in the FFEL program who may now only participate in the Direct Loan program and those who previously participated in the Direct Loan program only.

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 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.

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" of OMB Form 83-1.