

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION**

**William D. Ford Direct Loan Program Regulations – Servicemembers Civil Relief Act
(SCRA)**

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.

The Department of Education (Department) recently held a series of Negotiated Rulemaking meetings to discuss with members of the affected communities and the public the need for changes to the current regulations on a variety of topics. These negotiations led to proposed changes to 34 CFR 685.202. The Department is requesting a revision of the current information collection.

These Direct Loan Program proposed regulations revise the current regulations to reflect the Department's current practice of matching its database against the Defense Manpower Data System and automatically apply the interest rate limitation, as appropriate, to borrowers under the Servicemembers Civil Relief Act (SCRA).

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 required documentation will be retained by the Department, as Direct Loan holders, 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 Federal benefits due borrowers who are on active military duty and compliance with the SCRA.

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.

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

Because of the proposed change to regulations, the circumstances under which Direct Loan borrowers will be required to submit a written request and a copy of military orders has been, for practical purposes, eliminated. The process required under the proposed revised regulations is inherently an automated, electronic-based process.

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.

There are other forms, such as the public service forbearance and military service deferment form, which do provide sufficient evidence that the borrower qualifies for a reduced interest rate under the SCRA and loan holders are required to grant the SCRA interest rate limit based on that evidence. However, the automated, electronic processes under the proposed regulations cannot be used in reverse, to grant benefits such as the military service deferment or the public service forbearance because the DMDC does not provide sufficient information to grant those benefits. Therefore, to the extent that the borrower is seeking a public service forbearance or military service deferment and is entitled to the SCRA interest rate limitation, duplication is unavoidable.

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.

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.

This application is consistent with these guidelines.

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.

The proposed regulations were developed through the Negotiated Rulemaking process where the public provided its input and in consultation with schools, a variety of professional associations and other interested parties. The comment period for the burden associated with these final regulations will run concurrently with the comment period for the regulations.

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

No gifts or payments 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.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.

While no information is being collected based on this proposed regulation, the sharing of the borrower's data with the DMDC allows the loan holder/servicers to ensure an eligible borrower receives the SCRA benefit without additional burden to the borrower. The Privacy Act Notice included on the Direct Loan Master Promissory Note (OMB approved form 1845-0007) informs the borrower that disclosure of information may be made under a computer matching agreement. The computer matching agreement which facilitates the DMDC record sharing is authorized under the Common Services for Borrowers System of Record Notice (18-11-16).

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 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.

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)

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.

Under proposed §685.202(a)(11), the Department will match its servicing system, including borrowers, co-borrowers, and endorsers, against the U.S. Department of Defense’s DMDC to determine whether the borrower is eligible to receive an interest rate reduction under the SCRA.

All of the proposed regulations represent a shift in burden from borrowers to the Department. Under current regulations, borrowers are required to submit a written request for their loan holder to apply the SCRA interest rate limit and a copy of his or her military orders to support the request. Because, under the proposed regulations, borrowers will no longer be required to submit a written request or a copy of his or her military orders, the burden on borrowers will be eliminated in its entirety.

While borrowers will still be permitted to submit other evidence that they qualify for the SCRA interest rate limit, and that loan holders will be required to honor it, the Department has no data to suggest the extent to which erroneous or missing data in the U.S. Department of Defense’s DMDC would give rise to a borrower needing to submit alternative evidence of his or her military service, but anecdotal accounts suggest that the error rate of the DMDC is of a de minimis nature. Therefore, the proposed regulations eliminate all but 20 hours of burden on an estimated 141 borrowers and 141 responses that are associated with the current regulation.

Current Burden Calculation:

	Respondent	Responses		Burden Hours
Individuals	2,723	2,723		681
Individuals	-2,582	-2,582	X .33	-634
Revised Burden Total				
Individuals	141	141	X.33	20

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) :

Total Annualized Costs Requested : _____

There are no additional costs burdens associated with this collection other than those other than those listed in item 13.

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 is no additional cost to the Federal government as a result of these proposed 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 this information collection. The proposed regulations associated with this collection are changing to decrease burden on borrowers and adding burden to loan holders. This is a program change due to agency discretion. There is a change in burden to borrowers of -2582 responses and a decrease of 634 hours.

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-I.