

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

### **FEDERAL DIRECT LOAN PROGRAM REGULATIONS for FORBEARANCE and LOAN REHABILITATION**

#### **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.

*This information collection for the Direct Loan (DL) Program regulations is related to regulations for forbearance in §685.205 and reasonable and affordable loan rehabilitation in §685.211. We are requesting an extension of the current burden calculated for this information collection.*

*These regulations provide additional flexibilities for Direct Loan borrowers and permit oral requests for forbearance, as well as allow a borrower to object to the initially established reasonable and affordable loan repayment amount. In addition, if a borrower incurs changes to his or her financial circumstances, the borrower can provide supporting documentation to change the amount of the reasonable and affordable loan monthly repayment amount. There has been no change to the regulatory language.*

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 Department of Education (Department) uses the information to determine eligibility of a defaulted borrower to meet the regulatory requirements and rehabilitate the defaulted loan. The regulations provide for requests from a borrower for forbearance by exercising an option to orally acknowledge their Direct Loan debt and agree to repay that debt. In addition, under the reasonable and affordable provisions, when the amount of the monthly repayment amount is established the borrower may object to that amount and may subsequently have to provide documentation that supports their objection. Borrowers who have a change in financial circumstances are able to provide documentation that supports their change in financial condition 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

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

decision of adopting this means of collection. Also describe any consideration given to using technology to reduce burden.

*Under the regulations, these processes would be available via telecommunications devices and entail the submission of documents that support the objection or changing financial circumstances of the borrower. These provisions do not exclude the use of Web-based transmission of data; however, most borrowers make copies of supporting documents and mail them to the Department.*

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.

*The current requirements are minimal and avoid duplication. There is no similar information available that can be used or modified for this purpose at this time.*

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.

*These Direct Loan regulations provide for added flexibility for borrowers. Without these regulations borrowers would have limited access to a statutory benefit.*

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 continue to be conducted in a manner that is consistent with the guidelines in 5 CFR 1320.6.*

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 regulations were developed through the Negotiated Rulemaking process where the public provided its input in consultation with schools, and a variety of professional associations and other interested parties. There has been no change in the regulatory language since that time.*

*On August 28, 2019, a notice was published in the Federal Register (Vol. 84, No. 167, page 45133) requesting a 60-day public comment period on these regulations. Two comments were received. One expressed unhappiness with the federal student loan program in general and concern that borrowers were intentionally taking out loan with no intention of repaying them to the Federal government. We would point out that these regulations implement avenues for borrowers to temporarily suspend payment under strict conditions or rehabilitate a loan which will assist in keeping the borrowers in repayment and avoid a taxpayer liability. The other commenter expressed support of these regulations to assist borrowers who encounter unforeseen complications in repaying their loans while acknowledging the Department's safeguards to the borrower and fiscal responsibility. We thank the commenter for their support of these regulations. There is no change to the regulation or associated burden based on these comments.*

*The Department is requesting a 30-day public comment period.*

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.<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.

*The Department makes no pledge about the confidentiality of the data.*

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.

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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)

- 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 685.205 – Forbearance:

*The regulations authorize the Secretary to grant forbearance to a borrower or endorser who is in default on a loan, but prior to the loan being transferred to collections, based on the borrower’s or endorser’s oral request. The regulations provide that a forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser (as required under the current regulations), or a written or oral affirmation of the borrower’s or endorser’s obligation to repay the debt.*

*The regulations define “affirmation” for this purpose to be an acknowledgment of the loan by the borrower or endorser in a legally binding manner that can take the form of: 1) a new signed repayment agreement or schedule, or another form of signed agreement to repay the debt (as under current regulations), or 2) an oral acknowledgment and agreement to repay the debt that is documented by the Secretary in the borrower’s or endorser’s file and confirmed by the Secretary in a notice to the borrower; or 3) a payment made on the loan by the borrower or endorser.*

*The regulations also specify that if a forbearance in this situation is based on the borrower’s or endorser’s oral request and affirmation, the Secretary must orally review with the borrower the terms and conditions of the forbearance, and that the Secretary must send the borrower or endorser a notice that confirms the terms of the forbearance and the borrower’s or endorser’s affirmation of the obligation to repay the debt within 30 days of that agreement. The regulations require the Secretary to retain a record of the terms and conditions of the forbearance and affirmation in the borrower’s or endorser’s file.*

*On average, we estimate that it would take a borrower 0.17 hours (10 minutes) per oral acknowledgment to listen to the list of terms and conditions of the forbearance as they are reviewed with the borrower.*

Section 685.211(f)(1) – Rehabilitation of defaulted loans.

*The regulations require the Secretary to first offer a reasonable and affordable loan rehabilitation payment amount on a defaulted loan as determined using the income-based repayment (IBR) formula.*

*We estimate that on average each borrower will take 0.33 hours (20 minutes) to gather, copy and submit the required documentation to support the information initially provided to complete the IBR calculation.*

Section 685.211(f)(3) – Rehabilitation of defaulted loans.

*The regulations specifying that if the borrower objects to the amount calculated under the IBR formula, a second loan rehabilitation payment amount is determined solely on the information provided on the Financial Disclosure for Reasonable and Affordable Payments form (1845-0120).*

*We estimate that each objection will entail a phone conversation or e-mail that would span on average .17 hours (10 minutes) to raise an objection to the initially calculated rehabilitation payment amount and request recalculation based on documentation provided on the Financial Disclosure for Reasonable and Affordable Payments form (1845-0120).*

Section 685.211(f)(6) - Rehabilitation of defaulted loans.

*§685.211(f)(6) requires the Secretary to, upon request of a borrower, adjust the borrower’s monthly rehabilitation payment due to a change in the borrower’s financial circumstances. The borrower is required to provide documentation supporting the request.*

*We estimate that on average each borrower would take .33 hours (20 minutes) to gather, copy, and submit the required documentation of change in their financial circumstances.*

*Continuing Burden for 1845-0119*

<i># of Respondents</i>	<i># of Responses</i>	<i>Burden Hours</i>
<i>108,596</i>	<i>129,027</i>	<i>35,094</i>

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 capital/startup costs to respondents, nor are there any 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.

*The cost to the federal government is minimal. This minimal cost determination is due, in part, to the fact that current servicer contracts include phone counseling to borrowers, therefore the addition of oral affirmation of a debt does not represent a substantive increase in cost.*

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 an extension without change to the current approval for the 35,094 hours of burden to 108,596 respondents in this Direct Loan information collection under OMB 1845-0119.*

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 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.*