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DEPARTMENT OF EDUCATION

[Docket ID ED-2013-OPE-0063]

Agency Information Collection Activities: William D. Ford Federal Direct Loan (Direct Loan) Program and Federal Family Education Loan (FFEL) Program Financial Disclosure for Reasonable and Affordable Rehabilitation Payments Form
AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary responds to public comments on, and announces approval by the Office of Management and Budget (OMB) of, the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form.

DATES: This information collection is effective July 1, 2014.

FOR FURTHER INFORMATION CONTACT: For further information related to the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form, contact Brian Smith or Pamela Moran at (202) 502-7551 or (202) 502-7732 or by e-mail at: Brian.Smith@ed.gov or Pamela.Moran@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements so that we can minimize the reporting burden on the public. Providing an opportunity for comment also helps the public understand the Department's information collection requirements and how the requested data must be provided.

On July 29, 2013, the Secretary published a notice of proposed rulemaking (NPRM) (78 FR 45618) that solicited comments on proposed regulations and collections of information, including the proposed Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form (identified as 1845-NEW1 in the NPRM). The Secretary published final regulations based on the NPRM on November 1, 2013 (78 FR 65768). This notice responds to comments on and announces OMB's approval of the form. The Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form for the William D. Ford Federal Direct Loan (Direct Loan) Program and the Federal Family Education Loan

(FFEL) Program has been approved under OMB Control Number 1845-0120 with an expiration date of March 31, 2017.

In the NPRM, the Department estimated the burden to complete and submit the proposed version of the form. The Department received comments from the public on all aspects of the form and on its intended use. We addressed comments about the use of the form in the final regulations published on November 1, 2013 (see 78 FR 65768, 65776). In this notice, we address comments about the content of, and burden estimates associated with, the form.

The OMB-approved version of the form contains several changes from the draft form that was discussed in the NPRM and made available in the public docket on www.regulations.gov as document ID ED-2013-OPE-0063-0005. We explain the major changes in the Analysis of Comments and Changes section of the preamble that follows.

Analysis of Comments and Major Changes

In response to the Secretary's invitation in the NPRM, 25 parties submitted comments on the proposed regulations. Of these commenters, nine provided comments on the content of the proposed Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form. An analysis of the comments and of the major changes to the Financial Disclosure for Reasonable and Affordable Rehabilitation

Payments form since publication of the NPRM and final regulations follows.

We group major issues according to subject. Generally we do not address minor changes to improve clarity, or technical corrections, such as language that we have revised or added to the form to conform to the final regulatory language.

Financial Disclosure for Reasonable and Affordable

Rehabilitation Payments Form

Formatting and Layout

Comments: Several commenters expressed concerns about the length and complexity of the proposed form. The commenters felt that the proposed form was unnecessarily long and inefficiently arranged. In particular, commenters requested that we present the questions requesting income and expenses information from the borrower in a more concise and manageable format.

One commenter submitted a revised version of the form that consolidated several sections from the proposed form into one section and used a column format for reporting monthly income and expenses. The commenter's revised version of the form also included an "Instructions" section with detailed information on how to complete the form and information describing the various "Monthly Income" and

"Monthly Expenses" categories. The commenter believed that its revised version of the form would be more borrower-friendly and would help to ensure borrower success in the rehabilitation process.

Discussion: We agree that the commenter's revised version of the form is generally more clear and concise than the version of the form included with the NPRM. We agree that presenting all of the data elements relating to income and expenses in one section makes the form more borrower-friendly. We also believe that presenting these data elements in a column format provides more visual clarity to the form.

In addition, we agree that a separate "Instructions" section is helpful to borrowers. An "Instructions" section serves as an easy reference for borrowers and provides more detail than can easily be included in the sections of the form that borrowers are required to complete. Including a separate "Instructions" section is also consistent with most of our other loan servicing forms.

We also believe that the additional changes that we have made, discussed in the "Changes" section below, make the form easier to read and more manageable for borrowers.

Changes: We have used the commenter's proposed revision as the basis for the final version of the form.

We have also made the form more accessible to borrowers with visual impairments. We have increased the font size for most of the form to 11 point from 9 point and now include long sections of text in column format.

We have also accepted the commenters' recommendation to streamline the form by consolidating the income and expenses information into one section ("Section 2: Household Income and Reasonable and Necessary Monthly Expenses"), and we have used a column format for the data elements that request borrower income and expenses information. In addition, we have eliminated the check boxes asking borrowers to indicate whether they are paid weekly or biweekly because a loan holder does not need to know how many times per month a borrower receives a paycheck to determine the borrower's monthly income.

Finally, we have added an "Instructions" section to the form that provides general information on how to fill out the form and more detailed information about the specific data elements in Section 2.

Borrower Privacy Concerns

Comments: Several commenters noted that the form requested highly sensitive financial information from the borrower. These commenters stated that this type of

information should only be collected when fully justified by the necessity of its intended use.

In addition to requesting information about the borrower, the proposed version of the form requested the name, Social Security Number (SSN), and birth date of the borrower's spouse. Commenters raised privacy concerns about collecting this information, arguing that requesting such information was intrusive and not necessary for the purpose of the form.

One commenter recommended removing the birth date data element for the borrower's spouse but requiring the borrower to report marital status.

One commenter noted that the proposed version of the form required borrowers to report taxable and untaxed income separately. The commenter stated that, unless the intent is to exclude untaxed income from the calculation of monthly income, there is no reason to report it separately from taxable income. The commenter asked that the Department clarify how different sources of income will be considered, if the Department retains the requirement that the two types of income be reported separately on the form.

One commenter recommended that we require a borrower to provide monthly income information for individuals in the borrower's household other than the borrower and the

borrower's spouse. This commenter also recommended that the form require the borrower to identify the borrower's current employer.

Discussion: We share the commenters' concerns about protecting the privacy of borrowers completing the form. We do not intend to collect information that is not needed to make a determination of a borrower's reasonable and affordable rehabilitation payment amount. However, to determine a borrower's reasonable and affordable loan payment using the alternative methodology outlined in the final regulations, a loan holder must have information on both the borrower's monthly income and the borrower's reasonable and necessary monthly expenses. It is also necessary to collect such information for the borrower's spouse, if the spouse contributes to the household income of the borrower.

Under the Department's regulations at 34 CFR 685.211(f)(3)(ii) and 682.405(b)(1)(vii)(B) the Department or a FFEL loan holder considers the borrower's family size in determining whether the monthly expenses that a borrower reports are reasonable and necessary. Therefore, the Department's form must collect information on family size. However, since marital status is not needed to determine

family size, we disagree with the recommendation that we collect marital status information on the form.

We agree that the birth date of the borrower's spouse does not need to be reported. We have revised the form to make it clear that the name and SSN of the borrower's spouse are only needed if the borrower and the borrower's spouse are applying for rehabilitation of a joint Consolidation Loan.

We agree with the suggestion that it is not necessary to report taxable and untaxed income in separate sections of the form. Both types of income are counted when determining a borrower's monthly income for purposes of calculating a reasonable and affordable payment amount. Consequently, we have grouped these two forms of income together in the same section to provide a clear picture of a borrower's total monthly income.

We disagree with the recommendation that the form should collect income information for individuals in the borrower's household other than the borrower and the borrower's spouse. Under the Department's regulations for loan rehabilitation, monthly income is determined based only on the income of the borrower and his or her spouse.

We also disagree with the recommendation that we require borrowers to provide employer information on the

form. This information is not needed to determine a borrower's monthly income or expenses.

Changes: We have added a statement to the instructions for Section 2 indicating that spousal income information is only required if the spouse contributes to household income. We have also revised the form so that borrowers report taxable income and untaxed income in the same section. The form now has separate rows for each type of untaxed income (i.e., child support, Social Security benefits, etc.). As a result, the form no longer refers to "taxable" income or "untaxed" income.

We have removed the request for the birth date of the borrower's spouse and the "Spousal Identification" section that was on the proposed form. We have moved the questions asking for the name and SSN of the borrower's spouse to Section 3, which also collects family size and Adjusted Gross Income (AGI) information. A spouse's signature and other spousal information are only required if both borrowers are applying for rehabilitation of a joint Consolidation Loan.

Comments: None.

Discussion: The version of the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form that we included with the NPRM was intended to be used to

determine the initial offer of a borrower's monthly rehabilitation payment amount. The form required a borrower to report AGI because, under the regulations proposed in the NPRM, if the borrower rejected the initial offer of a monthly rehabilitation payment amount based on the borrower's monthly income and expenses, a loan holder would need the borrower's AGI to calculate a monthly rehabilitation payment amount using an alternative method. Under the alternative method, the monthly rehabilitation payment amount would equal 15 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline applicable to the borrower's family size and State, divided by 12, with a minimum payment of not less than \$5 ("the 15 percent formula").

Under the final regulations, the loan holder determines the initial offer of a monthly rehabilitation payment amount by using the 15 percent formula. If the borrower rejects that offer, the borrower completes the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form, and the loan holder calculates an alternative monthly rehabilitation payment amount using the monthly income and expenses information reported on the form. AGI is not needed to calculate a monthly rehabilitation payment amount based on a borrower's

monthly income and expenses, although it is needed to determine a monthly rehabilitation payment amount using the 15 percent formula.

A borrower who initially rejected the monthly rehabilitation repayment amount determined using the 15 percent formula may ultimately decide to accept that payment amount, after the loan holder has calculated a monthly payment amount based on the monthly income and expenses information provided on the form. In this circumstance, it might be useful for the borrower to provide AGI information on the form. However, we do not believe that borrowers who have explicitly rejected a payment amount determined based on their AGI should be required to provide AGI information on this form and, thus, we have made this question optional.

Changes: We have retained the data element asking a borrower to provide AGI information, but have made it optional.

Instructions and Definitions

Comments: The commenter that submitted a proposed revised version of the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form recommended adding definitions for "public assistance," "taxable

income," and "untaxed" income to the Definitions section of the form.

One commenter asked whether Supplemental Nutritional Assistance Program (SNAP) benefits should be reported under "Monthly Income."

Discussion: We agree that including a definition for "public assistance" will be helpful to borrowers in completing the form. Definitions for "taxable income" and "untaxed" income are not needed, since the final version of the form does not use those terms.

The Department's regulations at 34 CFR 685.211(f)(3)(i) and 682.405(b)(1)(vii)(A) specify that a borrower's monthly income includes public assistance payments, welfare benefits, and Supplemental Security Income. SNAP payments qualify under the general category of public assistance payments and will be counted when determining a borrower's monthly income.

Changes: We have added a definition for "public assistance" to Section 6 of the form.

Comments: None.

Discussion: The final regulations introduced the term "15 percent formula" as the formula used to determine the initial offer of a reasonable and affordable repayment

amount. We believe that explaining this term on the form will be helpful to borrowers.

Changes: We have added a definition for the "15 percent formula" to Section 6 of the form.

Paperwork Reduction Act of 1995

Sections 685.211 and 682.405 of the Department's final regulations published on November 1, 2013, contain information collection requirements. Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), the Department submitted the related Information Collection Request (ICR) to OMB for its review and approval.

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control number assigned to the collection of information in this notice and on the form itself.

Financial Disclosure for Reasonable and Affordable

Rehabilitation Payments Form

With the regulations published in the NPRM on July 29, 2013, the form was to be used for all defaulted borrowers who wished to establish a reasonable and affordable monthly rehabilitation repayment amount on a defaulted loan. The initial burden analysis, based on this proposal, resulted

in 329,029 respondents requiring 1.5 hours each to complete the form for a total burden estimated at 588,044 hours.

Sections 685.211(f)(5) and 682.405(b)(1)(vii) included in the Department's final regulations published on November 1, 2013, revised the proposal. The final rule now requires only borrowers who object to the monthly rehabilitation payment amount determined using the 15 percent formula described in the final regulations to provide the guaranty agency or the Secretary the information needed to calculate a monthly rehabilitation payment amount by completing the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form.

Based on this change, we project that of the estimated 11,144 Direct Loan borrowers and 35,899 FFEL borrowers who object to the calculation using the 15 percent formula in the final regulations, 75 percent or 8,358 Direct Loan and 26,924 FFEL borrowers will complete and return the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form to the Secretary or guaranty agency. As a result of the restructuring and streamlining of the form, we now anticipate that each borrower will need one hour to read the form and instructions, gather the pertinent documents and complete the form for submission. This will yield 35,282 hours of burden ($8,358 + 26,924 =$

35,282 x 1 hour = 35,282) under OMB Control Number 1845-0120.

We believe this burden estimate is a realistic projection for this new process and form. The Department plans to monitor the use of the approved Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form and in future information collection submissions be able to provide actual versus projected numbers of submissions (as available), therefore refining future burden estimates.

Consistent with the discussion above, the following chart describes the section of the regulations involving information collections, the information being collected and the collections that the Department has submitted to the Office of Management and Budget for approval and public comment under the Paperwork Reduction Act, and the estimated costs associated with the information collection. The monetized net savings from the reduced burden on guaranty agencies and borrowers using wage data developed using BLS data, available at <http://www.bls.gov/ncs/ect/sp/ecsuphst.pdf> is \$13,603,472 as shown in the chart below. This cost was based on an hourly rate of \$24.61.

Collection of Information

<u>Regulatory Sections</u>	<u>Information Collection Request</u>	<u>OMB Control Number and Estimated Change in Burden</u>	<u>Estimated Costs</u>
§682.405(b) and §685.211(f) Loan rehabilitation agreement	Financial Disclosure for Reasonable and Affordable Rehabilitation Payments	OMB 1845-0120 The Department estimates that the burden will decrease by 552,762 hours.	-\$13,603,472

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

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You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically,

through the advanced search feature at this site, you can limit your search to documents published by the Department. (Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family Education Loan Program; 84.268 William D. Ford Federal Direct Loan Program)

You may access the OMB-approved version of the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form at www.regulations.gov under the Docket Number ED-2013-OPE-0063.

Dated: March 26, 2014

Brenda Dann-Messier,
Acting Assistant Secretary
for Postsecondary Education.

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