

Supporting Statement

Information Collection for the Documents Associated with the Notice of Terms and Conditions of Additional Purchase of Loans under the “Ensuring Continued Access to Student Loans Act of 2008”

A. Justification

1. Necessity of Information Collection

The Ensuring Continued Access to Student Loans Act of 2008 (Pub. L. No. 110-227) (the ECASLA), which was signed into law on May 7, 2008, amended the Higher Education Act of 1965, as amended (the HEA) by adding a new Section 459A that provides the U.S. Department of Education (the Department) with temporary authority to purchase student loans from Federal Family Education Loan (FFEL) Program lenders. This is one of several authorities that the ECASLA provided to the Department in order to address concerns about the availability of student loans under the FFEL Program.

Section 459A of the HEA provides that the Secretary of Education, the Secretary of the Treasury, and the Director of the Office of Management and Budget must jointly determine the terms and conditions of the loan purchase program. Public Law 110-350, signed into law on October 7, 2008 extends the timeframe for the Secretary’s student loan purchase authority to September 30, 2010.

The documents included with this submission explain the terms and conditions of the program and collect information from FFEL Program lenders related to their interest in participating in the loan purchase programs for the 2009-2010 academic year. Additionally, collection of information to specifically support a lender’s request that the Department purchase FFEL loans or participation interests in loan facilities is required. Such information includes details of the lender’s funding request and the loans that provide support for the request.

The web page <http://federalstudentaid.ed.gov/ffelp/> contains information on the Loan Purchase Programs as well as all forms and data formats for participation in the program.

2. Purpose and Use of Information Collected

The documents associated with this collection are as follows:

1. **Notice of Intent to Participate** - Submitted to the Department’s Federal Student Aid office (ED/FSA) by FFEL lenders that wish to establish eligibility to participate in the loan purchase programs. The submission will be used by ED/FSA to establish the lender’s loan purchase eligibility date. The Notice of Intent to Participate is included as Exhibit H in the Master Participation Agreement and the Master Loan Sale Agreement. These agreements are described below.
2. **Master Participation Agreement** – Submitted by FFEL lenders to ED/FSA to establish the legal relationships and contractual conditions of the lenders’ participation in the “Loan Participation Purchase Program”.
3. **Master Loan Sale Agreement** - Submitted by FFEL lenders to ED/FSA to establish the legal relationships and contractual conditions of the lenders’ participation in the “Loan Purchase Commitment Program”.
4. **Operational Documents** – Submitted by FFEL lenders to ED/FSA to request purchase of loans or interest in loans under the loan purchase programs and to provide loan level

documentation to support such requests. These documents are included as attachments to this Supporting Statement.

3. Consideration of Improved Information Technology

The information will be submitted as follows:

1. **Notice of Intent to Participate** - Submitted electronically as a PDF attachment to an email to ED/FSA by FFEL lenders that wish to establish eligibility to participate in the loan purchase programs. The Notice of Intent to Participate is included as Exhibit H in the Master Participation Agreement and the Master Loan Sale Agreement.
2. **Master Participation Agreement Adoption Forms** – Submitted in paper form by FFEL lenders and participation custodians that wish to execute a Master Participation Agreement with the Department. Since the Agreement creates a binding contract between multiple parties it must be executed with “pen and ink” signatures.
3. **Master Loan Sale Agreement Adoption Forms** - Submitted in paper form by FFEL lenders and participation custodians that wish to execute a Master Participation Agreement with the Department. Since the Agreement creates a binding contract between multiple parties it must be executed with “pen and ink” signatures.
4. **Operational Documents** – Submitted by FFEL lenders and participating custodians to ED/FSA. Requests for funds will be in paper format because of the need for “pen and ink” signatures. Supporting loan information will be submitted using secure electronic formats.

4. Efforts to Identify Duplication

There is no information available from other sources that could be used for the purposes described in Item 2.

5. Burden Minimization as Applied to Small Businesses

No small businesses are affected by this information collection.

6. Consequences of Less Frequent Data Collection

Without this collection of information, it would not be possible for the Department to administer the loan purchase programs described in Item 1.

7. Special Circumstances Governing Data Collection

With two exceptions, this information collection does not involve any of the conditions listed in 5 CFR 1320.5(d)(2). Respondents may be required to report information more than quarterly in order to document ongoing student loan activity related to the loan purchase program. In addition, record retention requirements may exceed three years in some cases based on FFEL Program regulatory requirements.

8. Consultations Outside the Agency

In developing the documents associated with this collection, the Department worked closely with the Department of the Treasury, the Office of Management and Budget, and FFEL Program lenders. The Department will also publish the appropriate Federal Register notices inviting public comment.

9. Payments or Gifts to Respondents

No payments or gifts will be provided to respondents.

10. Assurance of Confidentiality

Loan level data for the Master Loan Sale Agreement will be collected and held in the Federal Family Education Loan Servicing System that is included under the Common Services for Borrowers System of Record Notice, number 18-11-16. Loan level data for the Master Participation Agreement will be collected and held in the Financial Management System with the System of Record Notice, number 18-11-17.

11. Questions of a Sensitive Nature

The documents associated with this collection do not require respondents to provide any information that would be considered sensitive.

12. Annual Hour Burden for Respondents/Recordkeepers

The total estimated number of respondents for this information collection is 1,295. The total estimated annual reporting hour burden is 14,880 hours, calculated as follows:

1. **Notice of Intent to Participate 2009-2010** – [MPA Exhibit H, MLSA Exhibit H] Action Order 1 on chart below

Estimated Number of Respondents = 800 FFEL lenders. Estimate based upon community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 800. Notice of Intent only needs to be filed once for the duration of the program.

Burden Hours per Response = 1 hour. Includes time for lender review, internal consultation, form completion, and submittal.

Total Burden Hours = 800 hours.

2. **Master Participation Agreement Adoption Forms 2009-2010** – [MPA Exhibits A, B, C] – Action Order MPA 1 on chart below

Estimated Number of Respondents = 35 FFEL lenders. Only FFEL lenders that will place at least \$50 million can participate). These are a subset of the 800 FFEL lenders.

Number of Responses = 35. The agreement only needs to be executed once for the duration of the program.

Burden Hours per Response = 20 hours. Includes time for lender review, including senior management and counsel, internal consultation, form completion, compiling attachments and submittal.

Total Burden Hours = 700 hours.

3. **Master Loan Sale Agreement Adoption Forms 2009-2010** – [MLSA Exhibits A, B, C] – Action Order MLSA 1 on chart below

Estimated Number of Respondents = 50 FFEL lenders. Expected number of FFEL lenders that will sell loans to the Department. Estimate based upon community input and

other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program. These are a subset of the 800 FFEL lenders.

Number of Responses = 50. The agreement only needs to be executed once for the duration of the program.

Burden Hours per Response = 12 hours. Includes time for lender review, including senior management and counsel, internal consultation, form completion, and submittal.

Total Burden Hours = 600 hours.

4. Operational Documents – Master Participation Agreement 2009-2010 – Only those who have completed the Master Participation Agreement can complete any of the documents below.

Rolling Monthly Forecast - Action Order MPA 2 on chart below

Estimated Number of Respondents = 35 FFEL lenders. Expected number of FFEL lenders who will sell participation interests to the Department. Estimate based upon minimum activity requirement (not less than \$50 million), community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 420. Monthly reporting requirement is one submission per month.

Burden Hours per Response = 1 hour. Assumes that, after initial start-up, the lender has developed an automated process for these reports that are submitted electronically.

Total Burden Hours = 420 hours.

Funding Request [MPA Exhibits D, E, F, G] – Action Order MPA 3a on chart below

Estimated Number of Respondents = 35 FFEL lenders. Expected number of FFEL lenders who will sell participation interests to the Department. Estimate based upon minimum activity requirement (not less than \$50 million), community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 875. Frequency depends upon lender need for funding, its business processes, and its internal capacities related to how long it can carry loan financing without ED support.

Burden Hours per Response = 2 hours. Assumes that, after initial start-up, the lender has developed an automated process for these reports.

Total Burden Hours = 1,750 hours.

Loan Schedule and Custodial Certification Data File – Includes Personally Identifiable Information - Action Order MPA 3b on chart below

Estimated Number of Respondents = 35 FFEL lenders.

Number of Responses = 875. Frequency depends upon lender need for funding, its business processes, and its internal capacities related to how long it can carry loan financing without ED support.

Burden Hours per Response = 2 hours. Assumes that, after initial start-up, the lender has developed an automated process for these reports that are submitted electronically.

Total Burden Hours = 1,750 hours.

Monthly Aggregate Settlement Date Report – Action Order MPA 4a on chart below

Estimated Number of Respondents = 35 FFEL lenders.

Number of Responses = 420. One submission for each month.

Burden Hours per Response = 1 hour. This report is a variation of the funding request schedules and the custodian will only need to make minor adjustments to the process that it uses for those reports. This report is submitted electronically.

Total Burden Hours = 420 hours.

Monthly Loan Schedule - Includes Personally Identifiable Information – Action Order MPA 4b on chart below

Estimated Number of Respondents = 35 FFEL lenders.

Number of Responses = 420. One submission for each month.

Burden Hours per Response = 2 hours. This report is a variation of the funding request schedules and the custodian will only need to make minor adjustments to the process that it uses for those reports. This report is submitted electronically.

Total Burden Hours = 840 hours.

Custodian Approval – Action Order MPA 4c on chart below

Estimated Number of Respondents = 10 FFEL lenders.

Number of Responses = 10. Agreement only needs to be executed once for the duration of the program.

Burden Hours per Response = 10 hours. Includes time for lender review, including senior management and counsel, form completion, compiling documents and submittal.

Total Burden Hours = 100 hours

5. Operational Documents - Master Loan Sale Agreement 2009-2010 - Only those who have completed the Master Loan Sales Agreement can complete any of the documents below.

45-Day Notice of Intent to Sell Loans & Projected Loan Schedule Summary of Loans to Be Sold Pursuant to the Master Loan Sales Agreement [MLSA Exhibit D] - Action Order MLSA 2 on chart below

Estimated Number of Respondents = 50 FFEL lenders. Expected number of FFEL lenders who will sell loans to the Department, either directly or when closing a participation interest facility. Estimate based upon community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 1,000. Frequency depends upon lender need for funding, its business processes, the 45 day notice requirement, and the lender's internal capacities related to how long it can carry loan financing without ED support.

Burden Hours per Response = 2 hours. Assumes that, after initial start-up, the lender has developed an automated process for these reports that are submitted electronically.

Total Burden Hours = 2,000 hours

Loan Transfer/Conversion File – Contains Personally Identifiable Information – Action Order MLSA 3 on chart below

Estimated Number of Respondents = 50 FFEL lenders. Expected number of FFEL lenders who will sell loans to the Department, either directly or when closing a participation interest facility. Estimate based upon community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 1,000. Frequency depends upon lender need for funding, its business processes and the lender's internal capacities related to how long it can carry loan financing without ED support.

Burden Hours per Response = 2 hours. Assumes that, after initial start-up, the lender has developed an automated process for these reports that are submitted electronically.

Total Burden Hours = 2,000 hours.

Bill of Sale, Bill of Sale Attachment and Final Loan Schedule Summary of Loans Sold [MLSA Exhibit E] – Action Order MLSA 4a on chart below

Estimated Number of Respondents = 50 FFEL lenders. Expected number of FFEL lenders who will sell loans to the Department, either directly or when closing a participation interest facility. Estimate based upon community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 1,000. Frequency depends upon lender need for funding, its business processes and the lender's internal capacities related to how long it can carry loan financing without ED support.

Burden Hours per Response = 1 hour. Assumes that, after initial start-up, the lender has developed an automated process for these reports.

Total Burden Hours = 1,000 hours.

Schedule of Loan – Contains Personally Identifiable Information – Action Order MLSA 4b on chart below

Estimated Number of Respondents = 50 FFEL lenders. Expected number of FFEL lenders who will sell loans to the Department, either directly or when closing a participation interest facility. Estimate based upon community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 1,000. Frequency depends upon lender need for funding, its business processes and the lender's internal capacities related to how long it can carry loan financing without ED support.

Burden Hours per Response = 2 hours. Assumes that, after initial start-up, the lender has developed an automated process for these reports that are submitted electronically.

Total Burden Hours = 2,000 hours.

Security Release Certification [MLSA Exhibit F] – Action Order MLSA 4c on chart below

Estimated Number of Respondents = 15 FFEL lenders. Expected number of FFEL lenders who will sell loans to the Department, either directly or when closing a participation interest facility. Estimate based upon community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 300. Frequency depends upon lender need for funding, its business processes and the lender's internal capacities related to how long it can carry loan financing without ED support.

Burden Hours per Response = 1 hour. Assumes that, after initial start-up, the lender has developed an automated process for these reports.

Total Burden Hours = 300 hours.

Notice of Assignment and Designation of Payee [MLSA Exhibit G]– Action Order MLSA 4d on chart below

Estimated Number of Respondents = 10 FFEL lenders. Expected number of FFEL lenders who will sell loans to the Department, either directly or when closing a participation interest facility. Estimate based upon community input and other indicators of the number of lenders who want to preserve their right to participate in the Loan Purchase Program.

Number of Responses = 200. Frequency depends upon lender need for funding, its business processes and the lender's internal capacities related to how long it can carry loan financing without ED support.

Burden Hours per Response = 1 hour. Assumes that, after initial start-up, the lender has developed an automated process for these reports.

Total Burden Hours = 200 hours.

Affected Entities: Private Sector

Totals:

Respondents = 1,295 # Responses = 8,405 # Annual Hour Burden = 14,880

On the table below, the Electronic Announcements include the instruments used to gather data either in forms requiring signatures or in data formats to provide individual and aggregate loan information. The Action Order identifies the order that participants must complete the forms and formats to utilize the Loan Purchase Program.

Required to preserve the right to participate in the Loan Purchase Program 2009-2010

<i>Action Order</i>	<i>Electronic Announcement # Exhibit - Name [Instruments]</i>	<i>Action</i>	<i>Estimated # of Respondents</i>	<i>Number of Responses</i>	<i>Burden Hours/ Response</i>	<i>Total Burden Hours</i>
1	EA 46 Exhibit H – Notice of Intent to Participate	File Notice of Intent to Participate	800	800	1 hour	800

Master Participation Agreement (MPA) 2009-2010 and Operational Documents

Under the Loan Participation Purchase Program (Master Participation Agreement), the Department purchases “participation interests” in FFEL loans. Generally, the lender transfers the title to the loan to an unrelated entity, the Custodian. The transferred loans are placed in a “participation facility” under the control of the Custodian. The Custodian sells a participation interest in the loans to the Department on behalf of the lender. The Department buys the participation interest by providing the Custodian with funds equal to the disbursed amounts of the loans. The Custodian provides those funds to the lender, giving liquidity to the FFEL lender specifically and the FFEL Program generally.

<i>Action Order</i>	<i>Electronic Announcement # Exhibit - Name [Instruments]</i>	<i>Action</i>	<i>Estimated # of Respondents</i>	<i>Number of Responses</i>	<i>Burden Hours/ Response</i>	<i>Total Burden Hours</i>
MPA1	EA46 2009-2010 Master Participation Agreement: Exhibit A – Adoption Agreement, Exhibit B – Officers Certificate, Exhibit C – Opinion of Counsel to the Sponsor Under Development – Initial Document Submission	Execute Master Participation Agreement (MPA) Follow instructions for document submission	35	35	20 hours	700

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	Instructions					
MPA2	Under Development – Monthly Rolling Forecast Reporting Process	File Rolling Monthly Forecast	35*	420	1	420
MPA 3a	EA46 2009-2010 Master Participation Agreement: Exhibit D – Participant Purchase Request, Exhibit E – Class A Participation Certificate, Exhibit F – Class B Participant Certificate, Exhibit G – Security Release Certification Under Development – Revised Document Submission Process	File Funding Request/Actual Sale of Interest in Loans Follow instructions for data submission	35*	875	2	1,750
MPA 3b	Under Development-Revised Document Submission Process	File Loan Schedule Custodial Cert. Data File (PII)	35*	875	2	1,750
MPA 4a	Under Development-Monthly Aggregate Settlement Date Report Submission Procedures Under Development – Loan Participation	File Monthly Aggregate Settlement Report Follow procedures for reporting data and filing for	35*	420	1	420

	Monthly Reporting and Payment Remittance Procedures	payment				
MPA 4b	Under Development - Revised Document Submission Process Under Development - Loan Participation Monthly Reporting and Payment Remittance Procedures	File Monthly Loan Schedule (PII) Follow procedures for reporting data and filing for payment	35*	420	2	840
MPA 4c	Under Development – Document Submission Instructions for Banks Wishing to Perform as Custodians Under Development - Revised Document Submission Process Under Development – Loan Schedule and Custodial Certification Table Load Procedures	File forms for Custodian Approval Submit Custodial Certification Follow prescribed table load procedures	10*	10	10	100

* = These actions can only be taken if the respondent has completed MPA1.

Master Loan Sale Agreement (MLSA) 2009-2010 and Operational Documents

Under the Loan Purchase Commitment Program (Master Student Loan Agreement), the Department agrees to purchase a loan at a price equal to the outstanding principal balance, plus accrued but unpaid interest owed on the loan, plus a reimbursement of the one percent lender fee, plus \$75 per loan. The lender provides a 45-day notice of intent to sell and the lender and Department work to finalize the roster of loans to be sold and the purchase price. Thus liquidity is provided to the FFEL lender specifically and to the FFEL Program generally.

<i>Action Order</i>	<i>Electronic Announcement # Exhibit - Name [Instruments]</i>	<i>Action</i>	<i>Estimated # of Respondents</i>	<i>Number of Responses</i>	<i>Burden Hours/ Response</i>	<i>Total Burden Hours</i>
MLSA 1	EA46 2009-2010 Master Loan Sale Agreement: Exhibit A – Adoption Agreement, Exhibit B – Seller’s Officer’s Certificate, Exhibit C – Opinion of Counsel to the Seller Under Development – Initial Document Submission for the Loan Purchase Commitment Program	Execute Master Loan Sale Agreement (MLSA) Follow instructions for document submission	50	50	12 hours	600
MLSA 2	EA46 2009-2010 Master Loan Sale Agreement: Exhibit D – 45-Day Notice of Intent to Sell Loans and Projected Loan Schedule Summary of Loans to be Sold Pursuant to the Master Loan Sale	File 45-Day Notice of Intent to Sell Loans & Projected Loan Schedule Summary of Loans to Be Sold	50*	1,000	2	2,000

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	Agreement Under Development - Initial Document Submission for the Loan Purchase Commitment Program	Follow instructions for document submission				
MLSA 3	Under Development – Loan Purchase Commitment Program Loan Transfer Conversion File	File Loan Transfer Conversion File (PII)	50*	1,000	2	2,000
MLSA 4a	EA46 2009-2010 Master Loan Sale Agreement: Exhibit E – Bill of Sale Under Development – MLSA Bill of Sale Submission Instructions	File Bill of Sale and Bill of Sale Attachment Instructions for Filing Bill of Sale/Loan Schedule Summary	50*	1,000	1	1,000
MLSA 4b	Under Development – MLSA Bill of Sale Submission Instructions	File Schedule of Loans (PII)	50*	1,000	2	2,000
MLSA 4c	EA46 2009-2010 Master Loan Sale Agreement: Exhibit F – Security Release Certification Under Development – MLSA Bill of Sale Submission Instructions	File Security Release Certification Instructions for Bill of Sale Submission	15*	300	1	300
MLSA	EA46	File Notice of	10*	200	1	200

4d	2009-2010 Maser Loan Sales Agreement: Exhibit G – Notice of Assignment and Designation of Payee Under Development – MLSA Assignment and Designation of Payee Submission Instructions	Assignment and Designation of Payee Instructions for Submission of Assignment and Designation of Payee				
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* = These actions can only be taken if the respondent has completed MLSA1.

13. Annual Cost Burden to Respondents

There are no annual capital/startup costs to respondents, nor are there any annual costs to respondents associated with operating or maintaining systems or purchasing services.

14. Estimated Annual Cost to the Federal Government

See ED/OMB costs estimates included in other documents related to these programs.

15. Reasons for Changes to Burden Hour Estimated

The burden hours are based primarily on the development of new forms required since the initial collection projections.

16. Collection of Information with Published Results

The results of this information collection will not be published.

17. Approval Not to Display Expiration Date

The Department is not seeking this approval.

18. Exceptions to the Certification Statement

The Department is not requesting any exceptions to the “Certification for Paperwork Reduction Act Submissions” of OMB Form 83-I.

B. Collection of Information Employing Statistical Methods

This information collection does not employ statistical methods.