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February 24, 2014

The Honorable Tom Harkin
Chairman
The Honorable Lamar Alexander
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable John Kline
Chairman
The Honorable George Miller
Ranking Member
Committee on Education and the Workforce
House of Representatives

Subject: *Department of Education: William D. Ford Federal Direct Loan Program*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Education (Education) entitled “William D. Ford Federal Direct Loan Program” (RIN: 1840-AD13). We received the rule on February 7, 2014. It was published in the *Federal Register* as final regulations on January 17, 2014. 79 Fed. Reg. 3108.

The final rule amends the regulations governing the William D. Ford Federal Direct Loan Program to implement the Moving Ahead for Progress in the 21st Century Act, which amended the Higher Education Act of 1965. Specifically, this final rule makes certain modifications to an interim final rule (IFR) published by Education in May 2013.¹ Among other changes, this final rule modifies the rounding rule for borrowers’ subsidized usage periods, modifies the calculation of the subsidized usage period for certain borrowers enrolled on a part-time basis, and modifies the calculation of the maximum eligibility period for 2-year baccalaureate degree programs.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule was published in the *Federal Register* on January 17, 2014, received by the Senate on February 7, 2014, and received by the House of Representatives on February 10, 2014. 79 Fed. Reg. 3108; 159 Cong. Rec. S947 (Feb. 12, 2014); 159 Cong. Rec. H1776 (Feb. 14, 2014). The rule has a stated effective date of March 18, 2014. Therefore, this final rule does not have the required 60-day delay in effective date under CRA.

¹ 78 Fed. Reg. 28,954 (May 16, 2013). As a major rule, the IFR was also subject to GAO’s reporting obligation under CRA. GAO, *Department of Education: William D. Ford Federal Direct Loan Program*, GAO-13-726R (Washington, D.C.: July 1, 2013).

Enclosed is our assessment of Education's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Education did not address the Unfunded Mandates Act of 1995 in the interim final rule and indicated in its submission that the requirement to prepare a written statement under the Act did not apply. Our review of the procedural steps taken indicates that Education complied with the applicable requirements, with the exception of the 60-day delay in effective date requirement.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Michael Gross
Assistant General Counsel for Regulatory Services
Office of the General Counsel
Department of Education

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF EDUCATION
ENTITLED
"WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM"
(RIN: 1840-AD13)

(i) Cost-benefit analysis

The Department of Education (Education) identified various benefits and costs of the interim final rule (IFR) as modified by this final rule. Among the benefits Education identified are (1) reduced loan balance and lower payments for borrowers; (2) incentives for students to complete academic programs in a timely manner and avoid incurring unnecessary loan debt, (3) accounting for differing enrollment levels to provide similar treatment to similarly situated borrowers, and (4) limiting borrower responsibility for accruing interest to encourage completion. The rule also provides for more accurate calculation of program length and borrower eligibility and provides borrowers with information on eligibility limitations and potential responsibility for accruing interest. Education did not quantify the benefits of this rule. Education calculated the annual costs of this final rule to be \$5.21 million at a 7 percent discount rate and \$5.31 million at a 3 percent discount rate.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

Education prepared an initial regulatory flexibility analysis for the IFR. This analysis included (1) a succinct statement of the objectives of, and legal basis for, the rule; (2) a description of and, where feasible, an estimate of the number of small entities to which the rule will apply; (3) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirements; (4) an identification, to the extent practicable, of all relevant federal regulations that may duplicate, overlap, or conflict with this rule; and (5) alternatives considered. In the analysis, Education estimated that the paperwork burden on small entities for the three paperwork requirements will be \$852,234 (\$195 per institution), \$65,953 (\$15 per institution), and \$268,566 (\$62 per institution). Education did not receive any comments in its initial regulatory flexibility analysis and did not make any change in this final rule that affected the analysis. Therefore, Education determined that the estimated burdens described in the IFR remain the same for this final rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

Education did not address the Act in the final rule. In its submission to us, Education indicated that the Act did not apply.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On May 16, 2013, Education published the IFR. 78 Fed. Reg. 28,954. The agency received comments from 14 parties on the interim final rule, to which it responded in this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

Education determined that none of the changes to the IFR made by this final rule affect the paperwork burdens under the Act. Education had determined that the IFR contained three information collection requirements under the Act and submitted them to the Office of Management and Budget (OMB) for review. Education had estimated that the total increase in burden on borrowers will be 216,677 hours for a cost of \$3,847,185, and the total increase in burden on institutions will be 66,037 hours for a cost of \$1,625,171. Education received no comments on the Paperwork Reduction Act portion of the IFR and did not make any changes to these burden estimates for this final rule.

Statutory authorization for the rule

Education promulgated this final rule under the authority of sections 1070g and 1087a to 1087j of title 20, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

For purposes of the analysis under this Order, Education deemed the rulemaking to consist of the IFR as modified by this final rule. Education determined that the IFR would have an annual effect on the economy of more than \$100 million because the transfers between borrowers who exceed the 150 percent limit and the government total approximately \$3.9 billion over loan cohorts 2013 to 2023. Therefore, Education determined that this rulemaking is economically significant and subject to review by OMB under the Order.