



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

November 20, 2008

Subject: Continued implementation of the Ensuring Continued Access to Student Loans Act of 2008

Summary: This letter provides information on how the Department of Education will use the Secretary's existing authority to purchase 2007-2008 FFEL Program loans to address issues of liquidity in the student loan market.

Dear Colleague:

On November 10, 2008, I issued a Dear Colleague Letter announcing the Department's steps to implement Public Law 110-350, which extends for one year the loan purchase authority contained in the Ensuring Continued Access to Student Loans Act (ECASLA). In that letter, I indicated that additional action may be necessary to ensure that students and families have continued access to Federal Family Education Loan Program (FFELP) loans. The purpose of this letter is to announce a short-term loan purchase program to address potential risks to scheduled subsequent disbursements for the 2008-2009 school year.

Specifically, I am announcing that the Department of Education will use its loan purchase program to purchase certain 2007-2008 academic year FFELP loans. This short-term use of our purchase authority is designed to minimize disruption in student lending prior to the Asset-Backed Commercial Paper conduit announced in my Dear Colleague letter (November 10, 2008) becoming operational. This short-term program will end when the conduit begins operating or on February 28, 2009, whichever comes first. The Department will purchase up to \$500 million in loans each week, during the use of this authority, up to an aggregate total of \$6.5 billion during the time period.

Eligible Loans

Under this program, the Department will buy fully disbursed FFELP Subsidized Stafford, Unsubsidized Stafford, and PLUS loans originated for academic year 2007-2008. The loans must have been first disbursed on or after May 1, 2007, for the loan period beginning on or including July 1, 2007, and must have been made to pay the costs of attendance at a postsecondary institution during the 2007-2008 academic year. If a lender offers to sell a borrower's loan to the Department, it must include all eligible 2007-2008 loans it holds for that borrower. FFELP consolidation loans are not eligible to be purchased by the Department under ECASLA. Loans on which a default claim or other claim for payment has been filed with the guarantor are not eligible for purchase. Further, the Department will not purchase loans that are more than 210 days delinquent at the time of sale. Finally, at the time of purchase by the Department, a loan must be free and clear of any encumbrance, lien, or security interest or any other prior commitment.

Borrower Benefits

Under this authority, the Department will purchase loans with certain borrower benefits; however, the Department will only purchase loans with benefits that can be implemented by Federal Student Aid's current servicing processes. A complete description of approved benefits will be included in a forthcoming *Federal Register* notice announcing this program. Consistent with the law's cost requirements, the Department will not purchase loans where a cash rebate or item/product was promised to the borrower.

Pricing

The Department will purchase loans at 97 percent of the principal and unpaid interest owed by the borrower, coincident with the standard guaranty rate for these loans. Upon purchase, the loans become Federal assets and will be serviced by the Department's servicer as a FFELP loan. Additional terms and conditions will be included in the above-referenced *Federal Register* announcement. As a condition of participation in this purchase program, a lender must continue to originate new loans and participate in the FFEL Program.

Loan Volumes

As noted, the Department will purchase up to \$500 million in eligible loans each week beginning in early December. The Department will specify a day and time period for lenders to offer loans for purchase. The Department will sum the total of the offers for each week. If the total of the original offers is equal to or less than the weekly \$500 million purchase amount, the Department will purchase the loans as offered by each lender. If the loans offered for sale by lenders exceed \$500 million, the Department will determine the amount that each lender will be eligible to receive from the weekly total, not to exceed the amount offered for sale by that particular lender. This will be done through an allocation process that will be outlined in the *Federal Register*. This process is intended to ensure a fair and equitable distribution of purchases based on actual FFELP activity by each lender.

Terms and Conditions

The announcement of the program and the agreements to participate, which include terms and conditions, will be published in a *Federal Register* notice and on the Department's Web site. The official announcement, however, is the one published in the *Federal Register*. While we believe the price and the types of eligible loans will not change, some other terms may need to be adjusted to ensure cost neutrality.

As was noted, I am taking these steps out of concern for ensuring that second and other subsequent disbursements are made for the remainder of the 2008-2009 academic year. This action, combined with the Department's current successful purchase programs and

announced conduit/replication purchase programs, will continue to enable students and families to access loans to pursue higher education.

Sincerely,

/s/

Margaret Spellings