



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

AUGUST 2003

Dear Colleague:

This letter transmits an updated edition of the U.S. Department of Education's *Agreed-Upon Procedures Guide (Attestation Engagement) Exceptional Performance Status For Federal Family Education Loan Program (FFELP) at Participating Lenders and Lender Servicers* originally issued in February 1997. This updated edition reflects changes made since then to the FFELP program statute and regulations.

Section 428I of the Higher Education Act of 1965, as amended, and 34 C.F.R. § 682.415 authorize the Secretary to recognize qualified lenders and lender servicers (as agents for eligible lenders) for an exceptional level of performance in servicing Federal Family Education Loan Program (FFELP) loans, if the lender or lender servicer requests such status and meets all legal and regulatory requirements. A lender or lender servicer designated for exceptional performance may receive 100 percent reimbursement on all claims submitted for insurance during the 12-month period following the date the lender or lender servicer receives notification of the designation.

Among the requirements of applicants for exceptional performer lender or lender servicer status is the submission of a special compliance audit of the loan portfolio. This Guide sets forth the requirements for this special audit. The Guide provides for an agreed-upon procedures level attestation engagement.

Engagement Period and Due Dates

To Apply for Designation for Exceptional Performance

To apply for a designation for "Exceptional Performance" status, lenders and lender servicers are required to submit specific items to the Secretary as set forth in 34 C.F.R. § 682.415(a)(2). These items include the audit (attestation engagement) of its loan portfolio, conducted by a qualified independent organization in accordance with the enclosed Guide. This agreed-upon procedures engagement is to cover the 12-month period ending no more than 90 days prior to the date the lender or servicer submits its request for designation. The engagement period is to be specified by the lender or servicer.

After Receiving Designation for Exceptional Performance

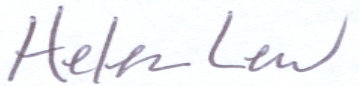
See Engagement Period section on page I-2 of the enclosed Guide.

Submission Requirements

Section III of the Guide provides detailed guidance concerning the requirements for submission of the audit (attestation engagement) for both the practitioner and the lender or lender servicer. In addition, copies of all required application information should be sent to each appropriate guaranty agency as set forth in 34 C.F.R. § 682.415(a)(4).

This guide is also available on line and may be downloaded from the ED/OIG Non-Federal Audit Team Home Page at <http://www.ed.gov/offices/OIG/nonfed/SFA.htm>. Questions pertaining to the Guide should be directed to the Office of Inspector General's Non-Federal Audit Team. Appendix A of the Guide contains information on how to contact this team.

Sincerely,

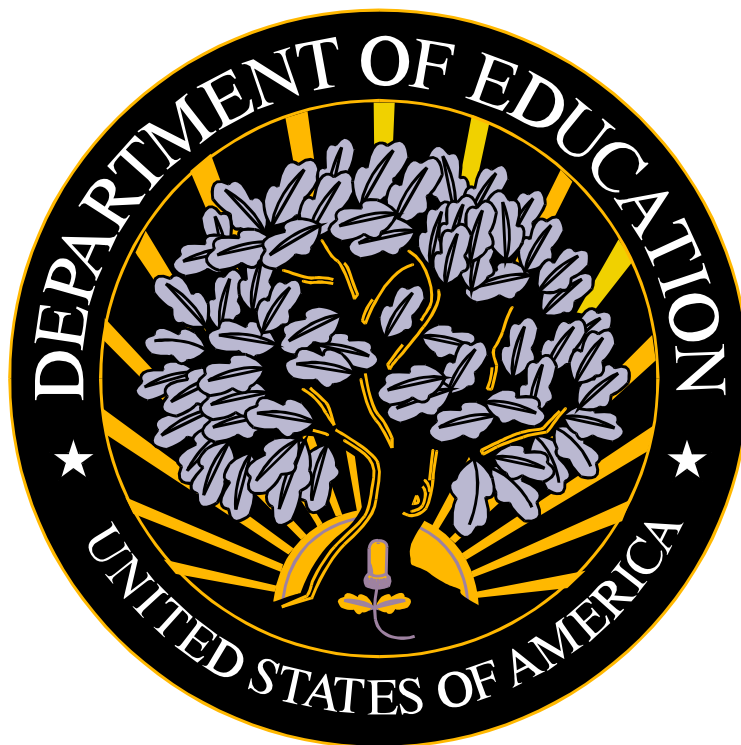
A handwritten signature in purple ink that reads "Helen Lew". The signature is written in a cursive style.

Helen Lew
Assistant Inspector General for Audit Services

**AGREED-UPON PROCEDURES GUIDE
(ATTESTATION ENGAGEMENT)**

**EXCEPTIONAL PERFORMANCE STATUS FOR
FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP)
AT PARTICIPATING LENDERS AND LENDER SERVICERS**

(Exceptional Performer Lender Audit Guide)



**U.S. DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL**

AUGUST 2003

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SECTION I

PLANNING AND OTHER CONSIDERATIONS

AUTHORIZATION

Section 428I of the Higher Education Act of 1965, as amended (HEA), authorizes the Secretary to recognize lenders and lender servicers (as agents for eligible lenders) for an exceptional level of performance in servicing Federal Family Education Loan Program (FFELP) loans. A lender or lender servicer designated for Exceptional Performance (EP) can receive 100 percent reimbursement on all claims submitted for insurance during the 12-month period following the date the lender or lender servicer receives notification of the designation.

ATTESTATION REQUIREMENTS AND STANDARDS

To receive a designation for EP, a lender or lender servicer is required to submit specific items to the Secretary as set forth in 34 C.F.R. § 682.415(a)(2).¹ These items include submission of a compliance audit of its loan portfolio, conducted by a qualified independent organization. The audit organizations must meet the qualification and independence standards contained in the U.S. General Accounting Office's (GAO) *Government Auditing Standards*, issued by the Comptroller General of the United States. The regulations implementing the audit requirement specify that the sampling and evaluation techniques are to be identified in an audit guide prepared by the U.S. Department of Education's Office of Inspector General.

To satisfy the audit requirement, this guide requires an agreed-upon procedures level attestation engagement. This engagement requires the practitioner to perform certain procedures and report his/her results. Management's assertion will be that required by Section III of this Guide, which includes an assertion that it (the lender or lender servicer) maintained an overall compliance performance percentage of 97 percent or higher pertaining to due diligence requirements applicable to each loan, on average, during the engagement period, with respect to:

- ▶ converting FFELP loans to repayment,
- ▶ collecting delinquent loans, and
- ▶ filing timely claims with the guaranty agency.

¹Unless otherwise specified, all regulatory citations are to the 2002 volume.

In addition to applicable standards contained in *Government Auditing Standards*, the standards contained in *Statements on Standards for Attestation Engagements (SSAE)* issued by the American Institute of Certified Public Accountants (AICPA) apply to this engagement.²

In June 2003, a revised edition of *Government Auditing Standards* was issued by the Comptroller General of the United States. These new standards are effective for attestation engagements for periods ending on and after January 1, 2004, however, early implementation by practitioners is encouraged. Practitioners should note that the new standards include an entire chapter devoted to General, Field Work, and Reporting Standards for Attestation Engagements (Chapter 6). Also, to the extent that this Guide specifically incorporates new requirements contained in the June 2003 edition of *Government Auditing Standards*, they are required by this Guide for all periods, including those ending before January 1, 2004. *Government Auditing Standards* may be accessed on the Internet at: www.gao.gov

USE OF THIS GUIDE

This guide is to be used by the practitioner to perform agreed-upon procedures pertaining to management's assertion about its compliance performance percentage with respect to converting loans to repayment, collecting delinquent loans, and timely claim filing requirements relating to the FFELP. This guide is divided into three sections. Section I provides general information about engagement requirements. Among other things, it provides guidance on the engagement period and due dates, the reporting entity, practitioner qualifications, engagement letters, planning and reporting considerations, and quality control reviews. Section II provides guidance on the requirements for "Agreed-upon Procedures" engagements including the required management assertions and the agreed-upon procedures to be performed. Section III contains the reporting requirements and illustrative reports.

This guide is intended to set forth the required agreed-upon procedures. All of the agreed-upon procedures related to the applicable management assertions contained in this guide must be performed by the practitioner. Technical assistance related to these engagements is available from the U.S. Department of Education, ED/OIG Non-Federal Audit Team. (See Appendix A).

ENGAGEMENT PERIOD

Prior To Receiving Designation as Exceptional Performer

The agreed-upon procedures engagement conducted in accordance with this guide is to cover the 12-month period ending no more than 90 days prior to the date the lender or lender servicer submits its request for designation. The engagement period is to be specified by the lender or lender servicer.

²Codified in Sections AT 101 through AT 701 of the *Codification of Statements on Auditing Standards* issued by the AICPA.

After Receiving Designation as Exceptional Performer

The agreed-upon procedures engagements conducted in accordance with this guide are to be performed on a quarterly basis. The first engagement is to cover the 3-month period starting the day after the end of the 12-month period for which the lender or lender servicer received its EP designation. The quarterly engagement is due within 90 days of the end of the quarter.

(NOTE: If designation is received after the end of the first quarter following the 12-month period, the first quarterly engagement will not be due until 90 days after the date the designation is received. However, the first quarterly engagement should cover the initial 3-month period.)

For all quarterly engagements, there should be no lapses of coverage. For example:

Assume the end of an applicant's 12-month period is 12/31, with its application submitted on 3/31. Designation is received on 5/31. The report for quarter one is not due until 8/29. In this instance, a report covering the first and second quarters (1/1-3/31 and 4/1 - 6/30) could be submitted at 8/29.

In addition to the quarterly engagements, the regulations in 34 C.F.R. § 682.415(b)(6)(iii) require continued annual engagements to maintain EP designation. The regulations state that the annual engagement can be conducted with a representative sample from the fourth quarter. Therefore, after receiving EP designation, entities should submit three quarterly engagements as identified above, and an annual engagement which includes representative coverage for the fourth quarter (i.e., practitioners should select a sample of loans from loans serviced during the 4th quarter. See *Statistical Sample Methodology* section of this guide).

Practitioners are to compute and report a compliance performance percentage for the fourth quarter based on the representative coverage of fourth quarter activity reviewed. The reporting, however, should be made as part of the annual engagement report. In determining the compliance performance calculation for the annual engagement, the agreed-upon procedures performed for the three quarterly engagements can also be used. However, practitioners using 90 percent confidence levels for the quarterly engagements would need to select additional loans to meet the 95 percent confidence level for the annual audits (See *Statistical Sample Methodology* section of this guide).

REPORTING ENTITY

Section 428I of the HEA refers to the designation of a lender or lender servicer as a single entity and does not indicate that separate lender units or servicing centers should be evaluated individually. Consistent with the statutory language, it is important to view the applicant as a single entity in performing the procedures relative to the determination of its overall compliance percentage, regardless of the number of loan servicing centers.

PRACTITIONER QUALIFICATIONS

A practitioner must meet the qualification and independence standards contained in *Government Auditing Standards*, including the requirements relating to continuing professional education. A lender's or lender servicer's internal auditors are not deemed by ED to be independent of the entity while auditing within it. Therefore, they cannot perform the required FFELP engagements.

The agreed-upon procedures to be enumerated or referred to in the practitioner's report are to be performed entirely by the practitioner. However, as set forth in AICPA Attestation Standards, AT 201.23, internal auditors or other personnel may prepare schedules and accumulate data or provide other information for the practitioner's use in performing the agreed-upon procedures. Also, 34 C.F.R. § 682.415(b)(6)(ii) provides that if a lender or lender servicer has been designated for exceptional performance for at least 15 months, a lender or lender servicer may petition the Secretary for permission to have its internal auditors perform the subsequent quarterly compliance audits required by 34 C.F.R. § 682.415(b)(6)(i). If the Secretary approves the request, the lender's or lender servicer's annual audit must assess the reliability of the procedures used by the lender's or lender servicer's internal auditor in performing the quarterly audits.

The audit organization is required to meet the quality control standards of *Government Auditing Standards*. Those standards require that practitioners and audit firms comply with the applicable provisions of the public accountancy laws and rules of the jurisdiction in which they are licensed and where the engagement is being conducted. If the lender or lender servicer is located in a State outside the home State of the practitioner, and the practitioner performs substantial field work in the lender's State, the practitioner should document his/her compliance with that State's public accountancy licensing requirements. This guide does not impose additional licensing requirements beyond those established by the individual State Boards of Accountancy.

ENGAGEMENT LETTER

The practitioner must prepare a letter of engagement to communicate to the lender or lender servicer the nature of the agreed-upon procedures engagement. In addition to any other appropriate provisions, or provisions required by applicable standards and procedures, the letter must include:

- A statement that the engagement is to be performed in accordance with *Government Auditing Standards*, the AICPA Statements on Standards for Attestation Engagements, and this guide.

- A description of the scope of the engagement and related reporting that meets the requirements of this guide.
- A statement that both parties understand that the U.S. Department of Education intends to use the practitioner's report in conjunction with the lender or lender servicer management's assertions to determine whether the lender or lender servicer maintained the 97 percent compliance performance percentage.
- A provision that the practitioner is required to provide ED, the ED Inspector General, the U.S. General Accounting Office (GAO), and their representatives access to working papers (including making photocopies, as necessary) upon request.
- A provision that the auditor shall retain working papers and reports for a minimum of five years after the date of issuance of the auditor's report(s) to the Lender, unless the auditor is notified in writing by the U.S. Department of Education to extend the retention period.

PLANNING CONSIDERATIONS

Purpose and Objective

The overall purpose of this engagement is to provide a report on management's assertions, including findings, if appropriate, based on applying agreed-upon procedures as set forth in this guide.

Agreed-upon Procedures Engagement

In an agreed-upon procedures engagement the practitioner is to report his or her findings based on the procedures performed³. The following conditions must exist for the practitioner to perform an agreed-upon procedures engagement:

- a. Management must accept responsibility for the entity's compliance with respect to conversion of loans to repayment, collection of delinquent loans, and timely claim filings with the guaranty agency.
- b. Management evaluates the entity's compliance with respect to conversion of loans to repayment, collection of delinquent loans, and timely claim filings with the guaranty agency.
- c. Management makes an assertion about the entity's compliance with respect to conversion of loans to repayment, collection of delinquent loans, and timely claim filings with the guaranty

³Attestation Standards, AT Section 201, provide guidance on agreed-upon procedures engagements.

agency. The assertion may be in a representation letter to the practitioner or in a separate report to accompany the practitioner's report.

- d. The agreed-upon procedures (1) are applied to the assertion (or its subject matter) that is capable of evaluation against reasonable criteria and (2) are expected to result in findings that are capable of reasonably consistent estimation or measurement.

Management Assertions and Scope

The practitioner is required to obtain written assertions from management as part of a compliance attestation engagement performed in accordance with the AICPA Attestation Standards [See Lender Assertion information in Section III]. Management's written assertions (which can be in the form of a representation letter to the practitioner) are the basis for the practitioner's testing, and therefore, are an integral part of the engagement. A lender does not have to service its entire loan portfolio to be eligible for EP designation. It may receive designation based on loans it actually services itself. However, a lender may not receive designation for a portion of its loan portfolio serviced by a lender servicer unless the lender servicer has separately received designation on its entire loan portfolio. Thus, the lender or lender servicer management's assertions can only be made for the loans that it actually services. An example of the type of management assertion that should be obtained is included in Appendix B, Example 2.

Lenders or lender servicers are **not** to exclude portions of their loan portfolio for purposes of the assertions by management relating to the satisfaction of the requirement of a 97 percent compliance percentage. Section 428I(a)(2) of the HEA requires that due diligence on each loan serviced during the engagement period shall be reviewed in determining the applicable compliance rate. Therefore, the statute does not provide any basis for excluding portions of a lender's or lender servicer's loan portfolio. The entire loan portfolio (that is serviced by the lender or lender servicer) should be considered for review in attesting to management's assertions about the applicable compliance rate for possible EP designation.

In many instances, lenders or lender servicers will acquire loans for servicing after they have already been converted to repayment and a certain number of due diligence activities have already been performed by the prior holder or its servicer. However, as set forth in 34 C.F.R. § 682.415(b)(3), the practitioner may consider only due diligence activities applicable during the engagement period.

Detecting Fraud, Illegal Acts, Violations of Provisions of Contracts or Grant Agreements, and Abuse that Could Have a Material Effect on the Subject Matter

In planning the engagement, auditors should be alert to situations or transactions that could be indicative of fraud, illegal acts, violations of provisions of contracts or grant agreements. If indications of fraud, illegal acts, violations of provisions of contracts or grant agreements, exist that could materially affect the subject matter or assertion, auditors should apply procedures

specifically directed to ascertain whether violations of provisions of contracts or grant agreements, and if indications of fraud, illegal acts, violations of provisions of contracts or grant agreements, has occurred and the effect on the subject matter or assertion.

Auditors should be alert to situations or transactions that could be indicative of abuse, and if indications of abuse exist that could significantly affect the results of the engagement, auditors should apply audit procedures specifically directed to ascertain whether abuse has occurred and the effect on the results of the attestation engagement.

REPORTING CONSIDERATIONS

(Also see Section III of this Guide)

Reporting Noncompliance

Management's assertions and the practitioner's report issued pursuant to this guide are a primary tool used by the Secretary of Education in determining whether to designate a lender or lender servicer for EP status.

In this agreed-upon procedures-level engagement, all instances of material noncompliance identified by the practitioner during his/her engagement, must be reported to the lender or lender servicer by completing a Schedule of Audit Findings (See Appendix B, Example 3). For purposes of this engagement, material noncompliance includes any noncompliance that would cause or may cause the lender or lender servicer to not qualify for Exceptional Performer Status. This includes not meeting the compliance performance percentages required for Exceptional Performer Status.

The lender or lender servicer is required to take corrective action on all reported noncompliance or system weaknesses (if possible), and maintain evidence of such for a minimum of five years.

Matters Requiring Immediate Action

If the practitioner becomes aware of possible fraud, illegal acts or indications of such acts which could result in criminal prosecution, except those that are clearly inconsequential, the practitioner should use discretion to avoid any actions which would compromise the protection of an individual's rights and the integrity of any official inquiries. Practitioners should consult applicable standards relating to the auditor's responsibility to detect and report fraud, illegal acts and errors and irregularities, including *Chapter 6 of Government Auditing Standards (June 2003 Revision)*.

This Guide requires the practitioner to promptly prepare a separate written report concerning illegal acts or indications of such acts which could result in criminal prosecution, and include all information described in Appendix B, Example 3 regarding the reporting of audit findings. This report should be submitted to the ED Office of Inspector General within 30 days after the date of discovery of the act or, if the practitioner decides to further explore the indications of such acts to

determine the size and seriousness of the situation, the report should be submitted within 30 days after he/she has completed the additional work. The practitioner shall submit this report to the Assistant Inspector General for Investigations at the following address:

Assistant Inspector General for Investigations
U. S. Department of Education
Room 4106 MES
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1530

Report Submission

The practitioner's reports should be submitted to the lender's or lender servicer's governing body (for example, the Board of Directors) and/or President, as appropriate. The reports should clearly indicate the period the agreed-upon procedures engagement covered. The lender or lender servicer shall include a copy of the practitioner's reports to ED at time of submission of its application for Exceptional Performer (EP) designation. The practitioner's reporting package is to be held by the lender or lender servicer for a period of five years, unless specifically requested by ED.

To receive a designation for "Exceptional Performance" lenders and lender servicers are required to submit specific items to the Secretary as set forth in 34 C.F.R. § 682.415(a)(2). These items include a compliance audit of its loan portfolio, conducted by a qualified independent organization. Section III of the attached guide provides detailed guidance concerning the submission requirements for both the practitioner, and the lender or lender servicer. In addition, copies of all required application information should be sent to each appropriate guaranty agency as set forth in 34 C.F.R. § 682.415(a)(4).

QUALITY CONTROL REVIEWS

The ED Office of Inspector General (OIG) has implemented procedures for evaluating non-Federal practitioners' work. As part of this evaluation, working papers shall be made available upon request to the ED/OIG or other representatives of the Secretary. To facilitate these requests, the practitioner's report package should include an information sheet identifying the name, address, and telephone number of the partner on the engagement (see page III-1). Working paper reviews will normally take place at the practitioner's office.

Deficient Work

Whenever an evaluation of a report or working papers discloses inadequacies, the practitioner may be asked to take corrective action. If ED determines that the report and working papers are substandard or contain significant inadequacies, referral to the AICPA and the cognizant State

Board of Accountancy will be considered. ED may also initiate action to debar the practitioner from further participation in Federal programs.

In addition, certain State Boards of Accountancy have requested that we send them copies of correspondence detailing deficiencies noted during our reviews. This includes the licensee's home State as well as the State(s) where the engagement was conducted, if different. This is for information only and does not constitute a referral for disciplinary action. Notification to the State Board is concurrent with notification to the licensee.

Retention of audit working papers

The auditor shall retain working papers and reports for a minimum of five years after the date of issuance of the auditor's report(s) to the Lender, unless the auditor is notified in writing by the U.S. Department of Education to extend the retention period.

SECTION II

AGREED-UPON PROCEDURES ENGAGEMENT

COMPLIANCE REQUIREMENTS, MANAGEMENT ASSERTION, AND AGREED-UPON PROCEDURES

INTRODUCTION

This section (1) lists the regulations applicable to this engagement, (2) clarifies the scope of management's assertion, and (3) provides the agreed-upon procedures the practitioner should perform relative to management's written assertions.

To perform the engagement, the practitioner should obtain, read and/or have available:

- (a) 34 C.F.R. Part 682.³
- (b) Bulletin 88-G-138 and related Questions and Answers [Cure Bulletin] (Appendix D of 34 C.F.R. Part 682).
- (c) Dear Colleague Letter, issued 3/96 (96-L-186, 96-G-287), which clarifies and provides interpretative guidance on the 12/92 FFELP regulations.

Special Loan Situations

The practitioner's sample may contain loans that are subject to certain waivers, loans that have lost reinsurance coverage prior to or during the engagement period, and loans that are cured. These loans should be treated as follows:

- ▶ Waivers - In certain instances the Secretary grants waivers of specific due diligence requirements due to extenuating circumstances (e.g., natural disasters, unforeseeable systems difficulties, etc.). These waivers deem the holder of the covered loans harmless for failing to comply with prescribed due diligence requirements and often impose conditions or limitations for the waiver to apply. These loans should not be excluded from the sample. However, the practitioner must report (e.g., in a footnote disclosure) how many sampled loans were subject to the waiver. In addition, the practitioner's working papers must include a copy of the relevant waiver as well as supporting documentation (if necessary) that would support exercising the waiver. To

³ Copies of the Code of Federal Regulations (C.F.R.) (Title 34 for Education) can be obtained on the internet at the following URL:
<http://www.gpo.gov/nara/cfr/cfr-table-search.html#page1>

calculate the lender's or lender servicer's compliance percentage, the activities covered by the waiver should be **excluded** from **both** the numerator and the denominator. **All other required** activities, including any additionally imposed by the waiver, should be included in the denominator and the successfully completed activities should be included in the numerator.

- ▶ Unreinsured Loans - Lost Reinsurance Prior To Current Engagement. Loans that lost reinsurance prior to the current engagement (even if the loan lost reinsurance while with a previous holder) are to be included in the determination of the compliance performance rating. For purposes of the calculation, all of the activities that should have been conducted on the loan during the engagement period, should be included in the denominator. Correspondingly, all of the activities that should have been conducted during the engagement period are to be reported as unsuccessful activities (0 count) in the numerator of the calculation.
- ▶ Unreinsured Loans - Losing Reinsurance During Current Engagement Period. Loans selected in the sample that lose reinsurance at any time during the engagement period should have all required activities counted in the denominator. Activities after the loss of reinsurance should be reported as unsuccessful in the numerator (0 count).
- ▶ Unreinsured Loans That Are Cured - Loans that lost reinsurance for which a cure is affected during the engagement period would count the cure as one successful activity in the numerator. (Activities performed after a loan lost reinsurance and prior to a cure do not count as successful activities.) Also, any timely and proper due diligence activities after a cure occurring during the engagement period would be counted as successful activities. (Note: For cures made after the engagement period, activities performed after a loan lost reinsurance and prior to a cure would not count as successful activities.)

NOTE:

If the borrower has never made a payment on the loan, the auditor must go back in the loan history and determine if the loan was correctly and timely converted to repayment and key the succeeding due diligence activities off the first day of delinquency regardless of when the loan was actually converted to repayment. (If the loan was not converted to repayment correctly and timely, all of the succeeding due diligence activities would be in error and should be treated as unsuccessful activities in the calculation of the 97% compliance percentage.)

If the borrower made one or more payments, it is not necessary for the auditor to determine if the loan was converted to repayment correctly or timely. In these cases, the auditor must go back in the loan history to the due date of the first payment that was not made by the borrower. The first day of the borrower's delinquency is the following day and all succeeding due diligence activities are keyed off that date. (If the first day of delinquency is incorrect, all of the

succeeding due diligence activities should be treated as unsuccessful activities in the calculation of the 97% compliance percentage.)

MANAGEMENT ASSERTION, STATISTICAL SAMPLE METHODOLOGY, AND AGREED-UPON PROCEDURES

This section provides the required lender or lender servicer management assertion, agreed-upon procedures the practitioner is to perform for the sample selection, and the suggested sample selection methodology to be used by the practitioner. **NOTE: The Statistical Sample Methodology Section provides a suggested approach for selecting the sample size, and calculating the statistical results. Practitioners that plan to use an alternative approach, must submit a full description of their sampling plan (universe, sample size, etc.), and the statistical methodology used in measuring results to the ED/OIG Technical Assistance Contact Point (see Appendix A) for concurrence. Regardless of the method used, practitioners are required to use the required confidence levels and tolerable error rate as noted in this section.**

Management Assertion

For the initial annual engagement the assertion is:

We [*insert Lender or Lender Servicer name*] are responsible for complying with the requirements pertaining to converting loans to repayment status, collecting delinquent loans, and timely filing requirements with the guaranty agency. We are also responsible for establishing and maintaining an effective internal control structure over compliance. We have performed an evaluation of our compliance with the aforementioned requirements. Our evaluation covered the annual period from _____ to _____. Based on our evaluation, we determined an overall compliance performance percentage of 97% or higher applicable to each loan, on average , with respect to the above compliance requirements.

For Quarterly Engagements the assertion should be changed appropriately to reflect the 97% compliance requirement for the quarter, the two consecutive months within the quarter, and for the 90% compliance requirement for any one month within the quarter as follows:

We [*insert Lender or Lender Servicer name*] are responsible for complying with the requirements pertaining to converting loans to repayment status, collecting delinquent loans, and timely filing requirements with the guaranty agency. We are also responsible for establishing and maintaining an effective internal control structure over compliance. We have performed an evaluation of our compliance with the aforementioned requirements. Our evaluation covered the quarterly period from _____ to _____. Based on our evaluation, we determined an overall compliance performance percentage of 97% or higher for the quarterly period, of 97% or higher for two consecutive months within this period, and 90% or higher for any one month during this period applicable to each loan, on average , with

respect to the above compliance requirements. (See Note for Quarterly Engagements, pg. II-7).

For subsequent annual engagements which includes the 4th quarter reporting, the assertion is:

We [*insert Lender or Lender Servicer name*] are responsible for complying with the requirements pertaining to converting loans to repayment status, collecting delinquent loans, and timely filing requirements with the guaranty agency. We are also responsible for establishing and maintaining an effective internal control structure over compliance. We have performed an evaluation of our compliance with the aforementioned requirements. Our evaluation covered the annual period from _____ to _____ including the 4th quarter period _____ to _____. Based on our evaluation, we determined a compliance performance percentage of 97% or higher for the annual period _____ to _____, 97% or higher for the fourth quarterly period _____ to _____, 97% or higher for two consecutive months of the fourth quarter, and 90% or higher for any one month of the fourth quarter applicable to each loan, on average, pertaining to these requirements.

(See also Appendix B, Example 2)

Scope of Management's Assertion

Lenders Servicing All of Their Loan Portfolio

When the lender performs the required due diligence activity for all of its FFELP loan portfolio, the assertion made by lender management must cover the due diligence activity (including converting FFELP loans to repayment, collecting delinquent loans, and timely claim filing requirements to the guaranty agency) for all FFELP loans serviced by the lender during the engagement period. The practitioner should perform an agreed-upon procedures level attestation engagement on the lender management's assertion applicable to all FFELP loan portfolios serviced by the lender during the period covering the lender management's assertions.

Lenders Using Servicers To Service Part of Their Loan Portfolio

When the lender uses a third-party servicer to perform the required due diligence activity for part of its FFELP loan portfolio, the assertion made by lender management must cover only the due diligence activity (including converting FFELP loans to repayment, collecting delinquent loans, and timely claim filing requirements to the guaranty agency) for the FFELP loans serviced by the lender (not the servicer) organization. The practitioner should perform an agreed-upon procedures level attestation engagement on the lender management's assertion applicable to the portion of the FFELP loan portfolio the lender services. For the portion of the loan portfolio serviced by a servicer, the servicer must apply for EP designation as set forth in the next paragraph.

Servicers

Many lenders use a third-party servicer to perform the required due diligence activity for part or all of its FFELP loan portfolio. Servicers desiring EP status, are required to apply for such designation for the loans they service. The assertion made by the servicer management must cover the due diligence activity (including collecting delinquent loans, converting FFELP loans to repayment, and timely claim filing requirements to the guaranty agency) for all FFELP loans it services. The practitioner should perform an agreed-upon procedures level attestation engagement on the servicer management's assertion applicable to all FFELP loan portfolios it serviced during the period for which management's assertions are being made.

Statistical Sample Methodology

The EP regulations in 34 C.F.R. § 682.415 (b)(3) specify that the practitioner is to calculate the compliance performance percentage using statistical sampling and evaluation techniques. The regulations specify that a random sample of loans must be selected and evaluated. For this attestation engagement, the Guide requires a high level of assurance as to the testing of management's assertion that it maintained a 97% or higher compliance performance percentage with respect to converting loans to repayment, collecting delinquent loans, and timely claim filing requirements. Sampling for attributes is to be used on this attestation engagement. The test procedures set forth for each of the three compliance areas relate to substantive tests of details as opposed to tests of controls. For this attestation engagement the Guide requires the use of statistical sampling techniques, including selecting a random sample of loans from the universe of all FFELP loans serviced during the period covered by the attestation engagement.

Population/Sample Size

Most lenders or lender servicers that will apply for EP designation will process many thousands of loans. In such a large population, the size of a sample is virtually independent of the size of the universe, but rather depends on the confidence desired by the user, the range over which this confidence would hold, the tolerable error rate (in this case, three percent), and the error rate the practitioner expects to encounter. Practitioners customarily express this sampling risk by describing the "reliability" and range of reliability (the "confidence level") of any particular sample. The "confidence level" of a sample is the inverse of the "risk of over reliance." For example, a practitioner might accept a 5 % risk that the result of the sample might not be representative of the population as a whole. This means that the risk of over reliance is 5 %. A sample chosen on such a basis would yield a 95% confidence level. This Guide requires confidence levels of a least 95% for the initial and subsequent annual engagements, and at least 90% for the quarterly engagements.

The Act and the implementing regulations base the EP designation on *activities performed*. However, the practitioner may find it more practical to select the sampling unit (i.e. required due diligence activities) by first selecting a *sample of loans* (which include required due diligence activities) from the population of *loans serviced*. The sample results should be accumulated, and the sample evaluated, based on the *required activities* and the *activities performed* from the loans

sampled. The servicing portfolio will most likely include loans to borrowers who are in school or in a grace period and therefore are not subject to the due diligence activities that are the basis of the designation. In selecting a sample, the practitioner may wish to exclude such loans from the population, in order to limit testing, but in that case, the practitioner should test the lender's or lender servicer's classification of loans to assure that a population so chosen would not routinely exclude loans that *should be* in repayment and therefore subject to sampling.

Appendix F provides guidance for the practitioner in selecting the sample for this engagement. The practitioner should refer to this appendix in determining a sample size (*required activities*) for the annual (Appendix F- Part I) or quarterly (Appendix F- Part II) engagement.

Testing Activities

The practitioner should test activities performed on these loans and should enter the results on the tables specified in this guide. To qualify as an *activity*, a due diligence step should be one that the lender or lender servicer would reasonably be expected to perform at the time. It should not include due diligence steps that are not required during the period tested. For example, the regulations specify the required number of letters and phone calls to be conducted within a period. A lender or lender servicer may send a letter to a borrower during the period between telephone calls, but is able to establish contact with the borrower in a subsequent phone call, thus rendering the letter unnecessary under the regulations. Since the letter was a reasonable step at the time, it should be considered as an activity in this case. A letter sent after contact is established, or an *extra* letter sent during the due diligence period, would not qualify as an activity for examination purposes, and would be excluded from the tables prepared by the practitioner.

Errors/Activity Measurement

For purposes of the EP engagement, an *error* is defined as an activity that is required but is conducted late, or not at all, by the lender or lender servicer. Most activities are triggered by previous actions that were required or performed by the lender or lender servicer. The regulations may require that a lender or lender servicer perform a number of activities during the engagement period; these may be performed late or not at all because of a failure to recognize the need for such an activity (a failure to convert a loan to repayment, for example). In this case, the failure to convert the loan would be counted as an error for purposes of the engagement (Counted as 2 errors if both the repayment begin date and first payment due date are determined incorrectly). Also, all of the succeeding due diligence activities would be in error and should be treated as unsuccessful activities in the calculation of the 97% compliance percentage.

A key element in performing this engagement is *when* (in what month) to include an activity for audit. This is especially critical when performing quarterly engagements, including determining compliance percentages for a given month. In some instances, an activity will be performed earlier than when it must be performed. In other instances, an activity will be untimely performed, in a month later than the one when it was due to be performed. For purposes of this

engagement, the practitioner should include an activity in the audit for the month in which the activity is required to be performed. Thus, the numerator and denominators of the compliance performance calculation should match with each other. The following examples demonstrate this point:

Example 1: A borrower's 150th day of delinquency is April 15. A normal delinquency letter which is required to be sent out no later than (NLT) day 150, or April 15, is actually sent out on March 12th. The practitioner should count the activity for April, even though the letter was sent in March. This is because the date by which it should have been sent was in April. In this example, the activity would be counted in April as a successful activity.


Example 2: A borrower's 150th day of delinquency is March 25. A normal delinquency letter which is required to be sent out no later than (NLT) day 150, or March 25, is actually sent out on April 10th. The practitioner should count the activity for March, even though the letter was not sent out until April. This is because the activity was required to have been performed in March. In this example, the activity would be counted in March as an unsuccessful activity.

In the examples above, the numerator and denominator (performed and required activities) in measuring compliance performance, are matched together. This should prevent a misinterpretation of test results when performing the quarterly engagements, and when recording activity at the beginning/ending of the annual engagement.

Evaluation of Results

After the practitioner completes all required test procedures and tables (as set forth in this guide) for the activities sampled, he/she is to compute the estimated compliance performance percentage for the sampled activities (using the formula and tables in Appendix G). This computation is to be made using statistical evaluation techniques based on the sample size, P, and the required 95% (annual audits) and 90% (quarterly audits) confidence levels. To be designated as an EP, the compliance performance percentage must not be less than the required 97% performance level. (NOTE: Only one overall compliance performance percentage is computed for the three compliance areas specified in this guide. See example computation on page E-1.)

(Note: The maximum number of errors which could be found in the sample of activities and still meet the required tolerable error rate (3% for this engagement) at the respective 95% and 90% confidence levels are computed using the guidance in Appendix F.)

 **Note for Quarterly Engagements** - The lender or lender servicer's computed estimated compliance percentage must be 97% or higher for the quarter, 97% or higher for two consecutive months, **and** at least 90% for any one month. Select a sample (using at least a 90% confidence level) of FFELP activities from loans included in the universe of all FFELP loans that were serviced during the quarterly engagement period. (Although the quarterly engagements will evaluate compliance on a monthly basis, one sample selection

can be made for the loans serviced during the quarter instead of taking three separate monthly samples).

The practitioner should perform the required procedures in Section II and calculate the estimated compliance percentage for the quarter to determine whether the lender or lender servicer meets the EP requirements. Assurance against a month to month deterioration should be accomplished by identifying the quarterly sampled activities at month specific level and making the same overall performance calculation month by month.

- ☞ **Replacement Sampling** - Loans which are permanently uninsured (i.e. they are not subject to the cure process) should be eliminated from the sample (i.e., replaced). Replacement loans should be chosen using the same methodology that was used to select the initial sample.
- ☞ **Loans Purchased During Engagement Period** - Loans purchased during the engagement period may have been converted to repayment by the previous holder prior to the purchase by the current holder (auditee). In this instance the practitioner may or may not have to review the correctness of the loan conversion. This will depend on whether or not the borrower has made a payment. Please see NOTE on page II-2 of this Guide.
- ☞ **Loans Sold During Engagement Period** - Loans sold during the engagement period that are selected in the sample, must be included in the determination of the auditee's compliance performance percentage. This may require the practitioner to obtain records from the purchaser in the event that adequate records regarding due diligence activity performed by the auditee are not retained.

1. CONVERSION OF FFELP LOANS TO REPAYMENT

The practitioner is to perform agreed-upon procedures to test whether the lender or lender servicer has complied with the requirements for converting FFELP loans to repayment, including the proper determination of the first payment due date as set forth in 34 C.F.R. § 682.209(a). (NOTE: The lender or lender servicer is required to maintain current, complete, and accurate records for each loan, including the repayment schedule and a record of each loan proceeds disbursement. [34 C.F.R. § 682.414(a)(4)(i) and (ii)])

Situations may arise, where the repayment begin date and the first payment due date may not both occur during the engagement period. If both required activities have been performed correctly, but only one is within the engagement period, only one action is included in the numerator and denominator in the calculation of the compliance performance percentage. If the repayment begin date is not correct and is within the engagement period, it would normally have led to an incorrect determination of the first payment due date. In this instance only one error should be noted (i.e., improper repayment begin date). The incorrect first payment due date (which occurred after the engagement period) should not be considered in either the numerator (performed activity) or the denominator (required activity) of the compliance performance calculation. However, if the first payment due date falls within the engagement period, but the repayment begin date was prior to the engagement period, the practitioner should determine the accuracy of the repayment begin date in order to determine if the first payment due date was calculated properly. If the repayment begin date is computed in error, the corresponding first payment due date is most likely in error. In this instance one error should be noted (i.e., improper first payment due date). Since the improper repayment begin date was prior to the engagement period, it is not considered in the compliance performance calculation.

A. Consolidation Loans.

The repayment period begins on the date the loan is disbursed. The first payment is due within 60 days after the date the loan is fully disbursed.

Agreed-Upon Procedures to be Performed by the Lender or Lender Servicer Practitioner.

For Consolidated Loans in the sample, perform the following:

- Step 1. Schedule the Consolidated loans and determine the **required** beginning date of the repayment period for each loan, i.e. the date the loan was fully disbursed. Enter the total number of loans in this category in Table 1, Line A1, Column A.

- Step 2. Compare the dates in Step 1 with the lender or lender servicer's records and identify the loans in this category where beginning date of the repayment period was properly documented. Enter the total number of loans in Table 1, Line A1, Column B.
- Step 3. For the loans scheduled in Step 1, calculate the **required** due date of the first payment for each loan. Enter the total number of loans in this category in Table 1, Line A2, Column A.
- Step 4. Compare the dates in Step 3 with the lender or lender servicer's records and identify the loans in this category where the first payment due date was properly **documented**. Enter the total number of loans in Table 1, Line A2, Column B.

B. PLUS Loans.

The repayment period begins on the date of the last disbursement. (NOTE: PLUS loans may have been disbursed in either single or multiple disbursements depending on the date of the first disbursement. Multiple disbursements were required after 10/01/93.) The first payment is due within 60 days of the last disbursement.

Agreed-Upon Procedures to be Performed by the Lender or Lender Servicer Practitioner For PLUS Loans in the sample, perform the following:

- Step 1. Schedule the PLUS loans and determine the **required** beginning date of the repayment period for each loan, e.g., the date the loan was fully disbursed. Enter the total number of loans in this category in Table 1, Line B1, Column A.
- Step 2. Compare the dates in Step 1 with the lender or lender servicer's records and identify the loans in this category where the beginning date of the repayment period was properly documented. Enter the total number of loans in Table 1, Line B1, Column B.
- Step 3. For the loans scheduled in Step 1, determine the **required** due date of the first payment for each loan. Enter the total number of loans in this category in Table 1, Line B2, Column A.
- Step 4. Compare the dates in Step 3 with the lender or lender servicer's records and identify the loans in this category where the first payment due date was properly **documented**. Enter the total number of loans in Table 1, Line B2, Column B.

C. SLS Loans.

☞ **IMPORTANT**

NOTE: For SLS borrowers who also have Federal Stafford loans on which they have not yet entered repayment, the borrower may request to delay repayment on the SLS loan to coincide with the repayment begin date on the Stafford loan. In such cases, the repayment period for the SLS loan is the same as for the Stafford loan.

The repayment period begins on the date the loan is disbursed, or if the loan is disbursed in multiple installments, the date of the last disbursement. [NOTE: SLS loans may have been disbursed in either single or multiple disbursements. Multiple disbursements were required after 10/01/93] The first payment is due within 60 days after the date the loan is fully disbursed.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner.

For SLS Loans in the sample, perform the following:

- Step 1. Schedule the SLS loans and determine the **required** beginning date of the repayment period for each loan, e.g. the date the loan was fully disbursed. Enter the total number of loans in this category in Table 1, Line C1, Column A.
- Step 2. Compare the dates in Step 1 with the lender or lender servicer's records and identify the loans in this category where beginning date of the repayment period was properly documented. Enter the total number of loans in Table 1, Line C1, Column B.
- Step 3. For the loans scheduled in Step 1, calculate the **required** due date of the first payment for each loan. Enter the total number of loans in this category in Table 1, Line C2, Column A.
- Step 4. Compare the dates in Step 3 with the lender or lender servicer's records and identify the loans in this category where the first payment due date was properly **documented**. Enter the total number of loans in Table 1, Line C2, Column B.

D. Stafford Loans.

The repayment period begins following the date on which the borrower is no longer enrolled on **at least** a half-time basis at an eligible institution as follows:

Applicable Interest Rate - 7%/Year	Initial Applicable Interest Rate - 8%; 9%; 10%/Year or variable
Not less than 9 months nor more than 12 months **	6 months

** The length of this grace period is determined by the lender for loans made under the FISL Program, and by the guaranty agency for loans guaranteed by the agency.

Correspondence Students

For a borrower of a Stafford loan who is a correspondence student, the grace period specified above begins on the earliest of the date:

- The day after the borrower completes the program;
- The day after withdrawal as determined pursuant to 34 C.F.R. § 668.22; or
- Sixty (60) days following the last day for completing the program as established by the school.

Borrower Requests Shortened Grace Period

For a Stafford loan, the repayment period begins prior to the end of the grace period if the borrower requests in writing and is granted a repayment schedule that so provides. In this event, a borrower waives the remainder of the grace period.

The first payment on a Stafford loan is due on a date established by the lender that is no more than:

- 45 days following the first day that the repayment period begins; [*See Note Below*]
- 45 days from the expiration of a deferment or forbearance period; [*See Note Below*]
- 45 days following the end of the post deferment grace period; [*See Note Below*]
- If the lender first learns after the fact that the borrower has entered the repayment period, no later than 75 days after the date the lender learns that the borrower has entered the repayment period; or
- An additional 30 days beyond the above periods in order for the lender to comply with the disclosure requirements to the borrower (34 C.F.R. § 682.209(a)(3)(ii)).

[Note: 45 days was changed to 60 days by the final regulations published on November 1, 2002 (67 FR 67078). These changes become effective July 1, 2003, but lenders could implement them

on or after November 1, 2002, if they elect.]

Military Service

For purposes of establishing the beginning of the repayment period for Stafford and SLS loans, the grace periods exclude any period during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code is called or ordered to active duty for a period of more than 30 days. Any single excluded period may not exceed three years and includes the time necessary for the borrower to resume enrollment at the next available regular enrollment period. Any Stafford or SLS borrower who is in a grace period when called or ordered to active duty as specified in this paragraph is entitled to a full grace period upon completion of the excluded period.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

For Stafford Loans in the sample, perform the following:

- Step 1. Schedule the Stafford loans and calculate the **required** beginning date of the repayment period for each loan. Enter the total number of loans in this category in Table 1, Line D1, Column A.
- Step 2. Compare the dates in Step 1 with the lender or lender servicer's records and identify the loans in this category where beginning date of the repayment period was properly documented. Enter the total number of loans in Table 1, Line D1, Column B.
- Step 3. For the loans scheduled in Step 1, calculate the **required** due date of the first payment for each loan. Enter the total number of loans in this category in Table 1, Line D2, Column A.
- Step 4. Compare the dates in Step 3 with the lender or lender servicer's records and identify the loans in this category where the first payment due date was properly **documented**. Enter the total number of loans in Table 1, Line D2, Column B.

E. Transfer Totals**Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner**

1. Sum Table 1, columns A & B.
2. Transfer the totals to the Summary Table, Line 1, columns A & B respectively.

2. COLLECTION OF DELINQUENT LOANS

General Information

NOTE: The following documentation will satisfy the requirements of this guide relative to determining whether the lender or lender servicer met the due diligence compliance requirements pertaining to collection of delinquent loans:

- ▶ Copies of collection letters sent to the borrower or endorser, or the loan collection history. Information on file should identify the date and subject of each communication (e.g., documentation of a telephone contact, written notice, collection letter, etc.) between the lender or lender servicer and the borrower or endorser, regarding delinquent loan collection. If the borrower has agreed, the “collection letters” and other communications may be electronic. [If letters are system-generated, the agency is only required to maintain samples of each letter with the system history identifying which letter was sent on what date.]
- ▶ Any other loan portfolio documents that provide evidence that the due diligence requirements were met.

[The loan records may be stored on microfilm, optical disk, or other machine readable formats]

☞ Note Regarding Telephone Due Diligence - The practitioner must verify telephone contacts with the borrower by matching recorded "long distance" telephone calls from lender or lender servicer records with telephone bills or records from the telephone company on a sample basis (i.e., not all required calls selected in the engagement sample need to be verified. Practitioners should use professional judgment in determining the number of telephone attempts to be verified). A busy signal is counted as an unsuccessful attempt. Two unsuccessful attempts are counted as a diligent effort, if the lender/servicer has reason to believe that the phone number for the borrower is correct. However, in the case of a busy signal, this would not result in an associated long distance charge on the telephone bill. Thus, only actual contacts (phone is answered) will be verifiable with a telephone bill or records from the telephone company.

☞ Note Regarding Rolling or Cascading Delinquencies - Loans selected in the sample may include rolling delinquencies (loans that go back and forth to different stages of delinquency because the borrower makes periodic payments or go to a certain level of delinquency, but then are granted a deferment and administrative forbearance to wipe out delinquency before the deferment period, but emerge from the deferment period and then become delinquent again, etc.) or cascading delinquencies (multiple loans of the same borrower being serviced that are at different stages of delinquency because the borrower

went into repayment on the loans at different times). For both rolling and cascading delinquencies, the practitioner must determine the activities required under these circumstances and whether the activities were successfully completed.

- ☞ Note Regarding the Counting of Required/Performed Collection Activity - Many of the audit procedures in this section call for multiplying the number of loans included in the sample by a specific number (dependent on the number of required activities for a given delinquency period) to arrive at the total number of required activities. However, in those instances where an individual borrower is delinquent on more than one loan that has been selected in the sample, the lender may perform a single collection activity (i.e., sending a single letter) to cover one or more delinquent loans for that borrower. In this instance, the practitioner should count the activity as having been performed for each delinquent loan included in the sample for this borrower. Thus, a count should be recorded for both required (denominator) and performed (numerator) activities reflected in the Tables included in this guide.

[Note: In a small number of cases, a lender's due diligence requirements may have been changed by a Voluntary Flexible Agreement (VFA) between the Department of Education and a guaranty agency under Section 428A of the HEA. Most of the VFAs only address the relationship between the Department and the guaranty agency, but some provisions may affect the timing of some of the due diligence activities of the lender. If the lender tells the auditor that its procedures have been changed by the guaranty agency under a VFA the auditor should review the guidance provided by the guaranty agency to the lender and review the lender's requirements to check for compliance with that guidance.]

IMPORTANT NOTICE: The lender or lender servicer will most likely be following the 1999 due diligence regulations for loans included in their portfolios. The 1999 regulations became effective for loans on which the first day of delinquency occurred on or after July 1, 2000, and are reflected in this section of the Guide beginning on page II-23. However, there may be rare occurrences where the lender's or lender servicer's portfolio may include loans for which pre-1999 regulations apply. To accommodate this rare occurrence, we have included the following section that reflects earlier regulations pertaining to collection of delinquent loans. If the first day of delinquency of all loans sampled was on or after July 1, 2000, skip to page II-25.

Pre-1999 Regulations

The requirements described in this section are generally those in effect from July 1, 1994, until the implementation of the Higher Education Amendments of 1998 by the 1999 regulations. To the extent necessary to determine a lender's compliance with due diligence requirements under pre-1999 regulations, the practitioner should reference the regulations for the year applicable to the delinquency of the loan being examined.

General. In the event of delinquency on a FFELP loan, the lender shall engage in at least the collection efforts described below. However, in the case of a loan made to a borrower who is incarcerated or to a borrower residing outside a State, Mexico, or Canada, the lender may send a forceful collection letter in lieu of each telephone effort required by this section (34 C.F.R. § 682.411 (1993)). [NOTE: Refer to the definition of "State" in Appendix C.]

Delinquency. For purposes of this section, delinquency on a loan begins on the first day after the due date of the first missed payment which is not made later. [For example, if the payment is due January 1, but is never made, the delinquency date is January 2.] The due date is established by the lender but must occur by the deadlines specified in 34 C.F.R. § 682.209(a) (1994) or, if the lender first learns after the fact that the borrower has entered the repayment period, no later than 75 days after the day the lender so learns, except as provided in 34 C.F.R. § 682.209(a)(3)(ii)(E) (1994). If a payment is made late, the first day of delinquency is the day after the due date of the next missed payment which is not later made. [For example, if the January 1 payment is made March 15, the due date would advance to February 1, and the delinquency date is February 2.]. A payment that is within five dollars of the amount normally required to advance the due date may nevertheless advance the due date if the lender's procedures allow for that advancement. [Note See Section 1 CONVERSION OF FFELP LOANS TO REPAYMENT which sets forth the requirements for establishing the first payment due date]

Gap in Collection Activity. A gap in collection activity does not necessarily indicate a violation or a loss of reinsurance. (The cure bulletin (88-G-138) contains a discussion of this in its definition of gap.) If there is a violation and a gap of 46 days or longer, then reinsurance is lost. Activities completed after reinsurance is lost may not be included in the numerator as successfully completed activities. The activities that were required or would have been required had reinsurance not been lost must be included in the denominator of the compliance performance calculation.

A. Compliance Requirement - 1 to 10 Days Delinquent, (1-15 Days Delinquent, if after July 1, 1997).

The lender during this period shall send at least **one** written notice or collection letter to the borrower informing the borrower of the delinquency and urging the borrower to make payments

sufficient to eliminate the delinquency.

(NOTE: This requirement is not applicable when:

- the delinquency involved multiple missed payments, the borrower paid some (but not all) of the missing payments, with the unpaid portion being 1 to 10 (1 to 15 days effective for loans for which the first date of delinquency was on or after July 1, 1997) days delinquent; or
- a delinquency period is suspended by the granting of an authorized deferment or forbearance period; but resumes when the deferment or forbearance period expires and the total period of delinquency before and after the deferment and forbearance period does not exceed 10 days (15 days effective for loans for which the first date of delinquency was on or after July 1, 1997); or
- the lender receives a dishonored check from the drawee submitted as a payment on the loan.)

Agreed-Upon Procedures to be Performed by the Lender or Lender Servicer Practitioner

(NOTE: All of the loans in the sample that were delinquent or in default should be included in this category.) For all of the delinquent or defaulted loans included in the sample that were delinquent from 1 to 10 days (1 to 15 days effective for loans for which the first date of delinquency was on or after July 1, 1997):

1. Using Table 2A, schedule the loans that should have had **required** written notices or collection letters sent to the borrowers. Enter the number of loans as the total of Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if lender or lender servicer records **document** that the required written notice or collection letter was sent to the borrower. Total Column B.
3. Transfer the totals from columns A & B to Table 2, Line A, columns A & B respectively.

B. Compliance Requirement - 11 to 180 Days Delinquent (16-180 Days Delinquent, if after July 1, 1997).¹

Unless exempted as set forth in 34 C.F.R. Part 682, Appendix D, during this period the lender shall engage in the following, urging the borrower to make the required payments on the loan:

¹ 11-240 days delinquent for a loan repayable in installments less frequent than monthly, or 16-240 days if installments less frequent than monthly and if after July 1, 1997.

At Least Four (4) Telephone Efforts	At Least Four (4) Collection Letters
One must be prior to 90 days	At least two letters must warn the borrower that if the loan is not paid the lender will assign the loan to the guaranty agency that, in turn, will report the default to all national credit bureaus, and that the agency may institute proceedings to offset the borrower's State and Federal tax refunds, to garnish the borrower's wages, and bring suit to compel loan repayment. ¹
One must be after 90 days	

¹ Effective July 1, 1997 this paragraph should be changed to:

“At least two of the collection letters must warn the borrower that if the loan is not paid, the lender will assign the loan to the guaranty agency that, in turn, will report the default to all national credit bureaus, and that the agency may institute proceedings to offset the borrower's state and Federal income tax refunds and other payments made by the Federal Government to a borrower or to garnish the borrower's wages, or assign the loan to the Federal Government for litigation against the borrower.”

Following the lender's receipt of a payment on the loan or a correct address for the borrower, the lender's receipt from the drawee of a dishonored check received as a payment on the loan, the lender's receipt of a correct telephone number for the borrower, or the expiration of an authorized deferment or forbearance period, the lender is only required to engage in these collection activities:²

<p>Upon receipt of loan payment, correct address, telephone number, etc., on a loan that is . . .</p>	
<p>11 to 90 Days Delinquent (11 to 120 days)³</p>	<p>91-120 Days Delinquent (121-180 days)³</p>
<p>Two (2) diligent telephone efforts (see definition in Appendix C) to contact the borrower during the remainder of the 180-day delinquency period.</p> <p>If the lender is unable, despite these efforts, to contact the borrower by telephone, the lender must send at least two forceful collection letters. If the lender's telephone efforts result in only a single contact with the borrower, the lender must send at least one forceful collection letter.</p>	<p>One (1) diligent telephone effort (see definition in Appendix C) to contact the borrower during the remainder of the 180-day delinquency period.</p> <p>If the lender is unable, despite this effort, to contact the borrower by telephone, the lender must send at least one forceful collection letter.</p>
<p><i>In addition</i>, depending upon the number of days remaining in the delinquency period, the lender may also be required to perform one or more additional collection activities to ensure that there are no gaps of more than 45 days in collection activities (60 days in the case of a transfer).</p>	

² This clarification of 34 C.F.R. § 682.411(d)(3) was issued on May 31, 1996, in an unnumbered "Dear FFEL Program Participant" letter ("Clarification of several issues discussed in Dear Colleague Letter (DCL) 96-L-186, 96-G-287 (March 1996)").

³ The days in parentheses represent the requirements for loan installments made less frequently than monthly.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

(NOTE: Loans scheduled in Section A may also be included in this category if they were delinquent over 10 days.) For the sample loans that were delinquent between 11 to 180 (11 to 240 for loans repayable in installments less frequently than monthly) days (16-180 Days Delinquent, if after July 1, 1997 or 16-240 days if installments less frequent than monthly and if after July 1, 1997):

1. Using Tables 2B1-2B2, schedule the loans that should have had **required** telephone efforts made and collection letters sent to the borrowers. Do not include loans for which all required collection efforts are made under the circumstances described in Step 2.
2. Using Table 2B3, schedule the loans that have required collection efforts following the lender's receipt of a payment on the loan or a correct address for the borrower, the lender's receipt from the drawee of a dishonored check received as a payment on the loan, the lender's receipt of a correct telephone number for the borrower, or the expiration of an authorized deferment or forbearance period.

Note: For Steps 1 and 2, use the footnotes to the tables to determine the number of **required** due diligence efforts. Enter the results as the totals for each Column A, as applicable. [See the examples for Tables 2B1-2B3 in Appendix E.]

3. For each of the loans scheduled in Steps 1 and 2, enter the number of due diligence efforts (not to exceed the maximum required) that the lender or lender servicer records **document** as having been performed. These numbers should be inserted in Column B of the tables as appropriate. Total Columns A and B of each table.
4. Transfer the totals of Columns A & B to Table 2, rows B1 through B3, columns A & B respectively.

C. Compliance Requirement - Delinquent 151 Days or Greater (Final Demand Letters)

On or after the 151st day of delinquency (the 211th day for loans payable in installments less frequent than monthly) the lender shall send a final demand letter to the borrower (Note: Final Demand letters to Endorsers are covered in Compliance Requirement E, page II-22 of this Guide) requiring repayment of the loan in full and notifying the borrower that a default will be reported to a national credit bureau. The lender shall allow the borrower at least 30 days after the date the letter is mailed to respond to the final demand letter and to bring the loan out of default before filing a default claim on the loan.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

(NOTE: Loans scheduled in Sections A and B may also be included in this category if they were delinquent over 150 days.) For the sample loans that were delinquent 151 days or greater:

1. Using Table 2C, schedule the loans where **required** final demand letters should have been sent to the borrowers. Enter the number of required letters for each loan (e.g. 1 or 2) in Column A.
2. For each of the loans scheduled in Step 1, enter in Column B the number of final demand letters that the lender or lender servicer records **document** were sent to the borrower and endorser (e.g., 1 or 2). (Note: Confirmation with the borrower or endorser is not required.) For each loan do not enter more than the required number of letters.
3. Total columns A & B.
4. Transfer the totals from columns A & B to Table 2, Line C, Columns A & B respectively.

D. Compliance Requirement - Skip Tracing

Unless the final demand letter specified in the **151 Days or Greater** section above has already been sent, the lender shall begin to diligently attempt to locate the borrower through the use of normal commercial skip-tracing techniques within 10 days of its receipt of information indicating that it does not know the borrower's current address. These efforts must include, but are not limited to making a diligent effort to contact each endorser, relative, reference, and individual and entity identified in the borrower's loan file. For this purpose, a lender's contact with a school official who might reasonably be expected to know the borrower's address may be with someone other than the financial aid administrator identified on the loan application.

These efforts must be completed by the date of default (for purposes of skip tracing, the "default" deadline is interpreted to be up until the lender files the default claim with the guaranty agency so that the lender can still keep working the account up to the last moment to avert the filing of a default claim) with no gap of more than 45 days between attempts to contact those individuals or entities. Upon receipt of information indicating that it does not know the borrower's current address, the lender shall discontinue the collection efforts described in the Compliance Requirements sections A through C above.

If the lender is unable to ascertain the borrower's current address despite its performance of the activities described in the first paragraph above, the lender is excused thereafter from performance of the collection activities set forth in Compliance areas A through C of this section unless it receives communication indicating the borrower's address **before the 151st day of delinquency** (the 211th day for loans payable in less frequent installments than monthly).

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

(NOTE: Loans scheduled in Sections A, B, & C may also be included in this category.) For the sample loans that were delinquent 151 days or greater and where a final demand letter was not sent, or within 10 days of receiving information indicating that it does not know the borrower's current address (which may be less than 151 days):

1. Using Table 2D, schedule the loans where **required** skip tracing procedures should have been performed within 10 days of receipt of information indicating that the lender or lender servicer did not know the borrower's current address. Enter the number of loans as the total of Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if the lender or lender servicer records **document** that required skip tracing procedures started within 10 days of the entity's receipt of information indicating that it did not know the borrower's current address and where efforts were completed by the date of default. Total Column B.
3. Transfer the totals from columns A & B to Table 2, Line D, Columns A & B respectively.

E. Compliance Requirement - Due Diligence for Loan Endorsers

(NOTE: These requirements are applicable when an endorser has signed the loan. Currently, endorsers are required only for PLUS loans, however, some Stafford or SLS loans originated prior to July 1, 1994 may have been signed by an endorser.)

During the delinquency period (1-180 days; 240 days if installments less frequent than monthly) the lender shall:

- ▶ Make a diligent effort to contact the endorser by telephone.
- ▶ Send the endorser on the loan **two** letters advising the endorser of the delinquent status of the loan and urging the endorser to make the required payments on the loan.

At least one letter must warn the endorser that if the loan is not paid, the lender will assign the loan to the guaranty agency that, in turn, will report the default to all national credit bureaus. In addition, the letter should state that the agency may institute proceedings to offset the endorser's State and Federal income tax refunds, garnish the endorser's wages, and bring suit against the endorser to compel loan repayment.³

³ Effective July 1, 1997, this paragraph should be changed to the following: "**At least one letter** must warn the endorser that if the loan is not paid, the lender will assign the loan to the guaranty agency that, in turn, will report the default to all national credit bureaus. In addition, the letter should state that the agency may institute

- ▶ On or after the 151st day of delinquency (the 211th day for loans payable in installments less frequent than monthly) the lender shall send a final demand letter to the endorser requiring repayment of the loan in full and notifying each one that a default will be reported to a national credit bureau. The lender shall allow the endorser at least 30 days after the date the letter is mailed to respond to the final demand letter and to bring the loan out of default before filing a default claim on the loan.
- ▶ Unless the final demand letter [see Compliance Item C above] has already been sent, upon receiving information indicating that it does not know the endorser's current address or telephone number, the lender must diligently attempt to locate the endorser through the use of normal commercial skip-tracing techniques. This effort **must** include an inquiry to directory assistance.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

Due Diligence Requirements

For the sampled loans that were delinquent 1-180 days (240 if installments are less than monthly):

1. Using Table 2E1, schedule the loans that should have had telephone efforts made and collection letters sent. Enter the total **required** due diligence efforts for each loan in the applicable Column A. Total each Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in the applicable Column B if the lender or lender servicer records **document** that the required due diligence procedures were performed. Total each Column B.
3. Sum the Column A and B totals and enter in the Grand Total column.
4. Transfer the Grand Total amounts to Table 2, row E1, columns A & B respectively.

Skip Tracing Requirements

For the sampled loans that were delinquent 1-180 days (240 if installments are less than monthly) **and** where the final demand letters have not been sent:

proceedings to offset the endorser's state and federal income tax refunds and other payments made by the federal government to an endorser or to garnish the endorser's wages, or assign the loan to the federal government for litigation against the endorser."

1. Using Table 2E2, schedule the loans that should have had skip tracing procedures performed. Enter the total **required** skip tracing procedures in column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if the lender or lender servicer records **document** that the required skip tracing procedures were performed. Total Column B.
3. Transfer the totals of Columns A & B to Table 2, row E2, columns A & B respectively.

F. Compliance Requirement - Preclaims Assistance.

The lender shall request preclaims assistance from the loan guaranty agency within 10 days before or after the date the agency established that it would first provide assistance.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

For each of the delinquent or defaulted loans included in the sample:

1. Using Table 2F, schedule the loans where **required** preclaims assistance from the loan guaranty agency should have been requested. Enter the total number of loans in Table 2F, Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if the lender or lender servicer records **document** that preclaims assistance was requested within the time period. Total Column B.
3. Transfer the totals of Columns A & B to Table 2, Line F, columns A & B respectively.

1999 Regulations

The 1999 regulations brought about major changes to the Lender Due Diligence requirements. These regulations became effective for loans on which the first day of delinquency occurs on or after July 1, 2000.

General. In the event of delinquency on an FFELP loan, the lender shall engage in at least the collection efforts described below. However, in the case of a loan made to a borrower who is incarcerated or to a borrower residing outside a State, Mexico, or Canada, or whose telephone number is unknown, the lender may send a forceful collection letter in lieu of each telephone effort required by 34 C.F.R. § 682.411. [NOTE: Refer to the definition of "State" in Appendix C.]

Delinquency. For purposes of this section, delinquency on a loan begins on the first day after the due date of the first missed payment which is not made later. [For example, if the payment is due January 1, but is never made, the delinquency date is January 2.] The due date is established by the lender but must occur by the deadlines specified in 34 C.F.R. § 682.209(a) or, if the lender first learns after the fact that the borrower has entered the repayment period, no later than 75 days after the day the lender so learns, except as provided in 34 C.F.R. § 682.209(a)(2)(v) and (a)(3)(ii)(E). If a payment is made late, the first day of delinquency is the day after the due date of the next missed payment which is not later made. [For example, if the January 1 payment is made March 15, the due date would advance to February 1, and the delinquency date is February 2.]. A payment that is within five dollars of the amount normally required to advance the due date may nevertheless advance the due date if the lender's procedures allow for that advancement. [NOTE: See Section 1, CONVERSION OF FFELP LOANS TO REPAYMENT, which sets forth the requirements for establishing the first payment due date.]

Gap in Collection Activity. A gap in collection activity does not necessarily indicate a violation or a loss of reinsurance. (The cure bulletin (88-G-138) contains a discussion of this in its definition of gap.) If there is a violation and a gap of 46 days or longer, then reinsurance is lost. Activities completed after reinsurance is lost may not be included in the numerator as successfully completed activities. The activities that were required or would have been required had reinsurance not been lost must be included in the denominator of the compliance performance calculation.

G. Compliance Requirement - 1 to 15 Days Delinquent

The lender during this period must send at least one written notice or collection letter to the borrower informing the borrower of the delinquency and urging the borrower to make payments sufficient to eliminate the delinquency and informing the borrower that assistance may be available if he or she is experiencing difficulty in making a scheduled repayment.

(NOTE: This requirement is not applicable when:

- the delinquency involved multiple missed payments, the borrower paid some (but not all) of the missing payments, with the unpaid portion being 1 to 15 days delinquent; or
- a delinquency period is suspended by the granting of an authorized deferment or forbearance period; but resumes when the deferment or forbearance period expires and the total period of delinquency before and after the deferment and forbearance period does not exceed 15 days; or
- the lender receives a dishonored check from the drawee submitted as a payment on the loan.)

Agreed-Upon Procedures to be Performed by the Lender or Lender Servicer Practitioner

(NOTE: All of the loans in the sample that were delinquent or in default should be included in this category.) For all of the delinquent or defaulted loans included in the sample that were delinquent from 1 to 15 days:

1. Using Table 2G, schedule the loans that should have had required written notices or collection letters sent to the borrowers. Enter the number of loans as the total of Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if lender or lender servicer records document that the required written notice or collection letter was sent to the borrower. Total Column B.
3. Transfer the totals from columns A & B to Table 2, Line G, columns A & B respectively.

H. Compliance Requirement - 16 to 180 Days Delinquent

(Note: 16-240 days delinquent for a loan repayable in installments less frequent than monthly.)

Unless exempted as set forth in 34 C.F.R. § 682.411(d)(4), during this period the lender must engage in the following, urging the borrower to make the required payments on the loan:

<p>At Least Four (4) Telephone Efforts</p>	<p>At Least Four (4) Collection Letters</p>
<p>One must be on or before the 90th day of delinquency</p>	<p>At least two (2) letters must warn the borrower that if the loan is not paid the lender will assign the loan to the guaranty agency that, in turn, will report the default to all national credit bureaus, and that the agency may institute proceedings to offset the borrower's State and Federal tax refunds, and other payments made by the Federal Government to the borrower or to garnish the borrower's wages, or to assign the loan to the Federal Government for litigation against the borrower.</p>
<p>One must be after 90 days</p>	

Following the lender's receipt of a payment on the loan or a correct address for the borrower, the lender's receipt from the drawee of a dishonored check received as a payment on the loan, the lender's receipt of a correct telephone number for the borrower, or the expiration of an authorized deferment or forbearance period, the lender is only required to engage in these collection activities:⁴

<p>Upon receipt of loan payment, correct address, telephone number, etc., on a loan that is . . .</p>	
<p>16 to 90 Days Delinquent (16 to 120 days)⁵</p>	<p>91-120 Days Delinquent (121-180 days)⁴</p>
<p>Two (2) diligent telephone efforts (see definition in Appendix C) to contact the borrower before the 181st day of delinquency.</p> <p>If the lender is unable, despite these efforts, to contact the borrower by telephone, the lender must send at least two forceful collection letters. If the lender's telephone efforts result in only a single contact with the borrower, the lender must send at least one forceful collection letter.</p>	<p>One (1) diligent telephone effort (see definition in Appendix C) to contact the borrower before the 181st day of delinquency.</p> <p>If the lender is unable, despite this effort, to contact the borrower by telephone, the lender must send at least one forceful collection letter.</p>
<p><i>In addition</i>, depending upon the number of days remaining in the delinquency period, the lender may also be required to perform one or more additional collection activities to ensure that there are no gaps of more than 45 days in collection activities (60 days in the case of a transfer).</p>	

⁴ This clarification of 34 C.F.R. § 682.411(d)(3) was issued on May 31, 1996, in an unnumbered "Dear FFEL Program Participant" letter ("Clarification of several issues discussed in Dear Colleague Letter (DCL) 96-L-186, 96-G-287 (March 1996)").

⁵ The days in parentheses represent the requirements for loan installments made less frequently than monthly.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

(NOTE: Loans scheduled in Section G may also be included in this category if they were delinquent over 15 days.) For the sample loans that were delinquent between 16 to 180 days (16 to 180 days for loans repayable in installments less frequently than monthly):

1. Using Tables 2H1-2H2, schedule the loans that should have had **required** telephone efforts made and collection letters sent to the borrowers. Do not include loans for which all required collection efforts are made under the circumstances described in Step 2.
2. Using Table 2H3, schedule the loans that have required collection efforts following the lender's receipt of a payment on the loan or a correct address for the borrower, the lender's receipt from the drawee of a dishonored check received as a payment on the loan, the lender's receipt of a correct telephone number for the borrower, or the expiration of an authorized deferment or forbearance period.

Note: For Steps 1 and 2, use the footnotes to the tables to determine the number of **required** due diligence efforts. Enter the results as the totals for each Column A, as applicable. [See the examples for Tables 2H1-2H3 in Appendix E.]

3. For each of the loans scheduled in Steps 1 and 2, enter the number of due diligence efforts (not to exceed the maximum required) that the lender or lender servicer records **document** as having been performed. These numbers should be inserted in Column B of the tables as appropriate. Total Columns A and B of each table.
4. Transfer the totals of Columns A & B to Table 2, rows H1 through H3, columns A & B respectively.

I. Compliance Requirement - 181 to 270 Days Delinquent (Note: 241-330 days delinquent for a loan repayable in installments less frequent than monthly.)

During this period the lender must engage in efforts to urge the borrower to make the required payments on the loan. These efforts must, at a minimum, provide information to the borrower regarding options to avoid default and the consequences of defaulting on the loan.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

For the sample loans that were delinquent 181-270 days:

1. Using Table 2I, schedule the loans that should have had required efforts to urge the borrower to make the required payments on the loan. Enter the number of loans as the total of Column A.

2. For each of the loans scheduled in Step 1, enter in Column B a '1' if the lender or lender servicer records **document** that effort(s) were made to urge the borrower to make the required payments on the loan. (Note: For each loan do not enter more than '1' the required minimum number of efforts.
3. Total columns A & B.
4. Transfer the totals from columns A & B to Table 2, Line I, Columns A & B respectively.

J. Compliance Requirement - Delinquent 241 Days or Greater (Final Demand Letters)

On or after the 241st day of delinquency (the 301st day for loans payable in installments less frequent than monthly) the lender must send a final demand letter to the borrower (Note: Final Demand letters to Endorsers are covered in Section L) requiring repayment of the loan in full and notifying the borrower that a default will be reported to a national credit bureau. The lender must allow the borrower at least 30 days after the date the letter is mailed to respond to the final demand letter and to bring the loan out of default before filing a default claim on the loan.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

(NOTE: Loans scheduled in Section I, may also be included in this category if they were delinquent over 240 days.) For the sample loans that were delinquent 241 days or greater:

1. Using Table 2J, schedule the loans where **required** final demand letters should have been sent to the borrowers. Enter the number of required letters for each loan (e.g. 1 or 2) in Column A.
2. For each of the loans scheduled in Step 1, enter in Column B the number of final demand letters that the lender or lender servicer records **document** were sent to the borrower and endorser (e.g., 1 or 2). (Note: Confirmation with the borrower or endorser is not required.) For each loan do not enter more than the required number of letters.
3. Total columns A & B.
4. Transfer the totals from columns A & B to Table 2, Line J, Columns A & B respectively.

K. Compliance Requirement - Skip Tracing

Unless the final demand letter specified in the **241 Days or Greater** section above has already been sent, the lender shall begin to diligently attempt to locate the borrower through the use of normal commercial skip-tracing techniques within 10 days of its receipt of information indicating that it does not know the borrower's current address. These efforts must include, but are not limited to making a diligent effort to contact each endorser, relative, reference, and individual and entity identified in the borrower's loan file. For this purpose, a lender's contact with a school

official who might reasonably be expected to know the borrower's address may be with someone other than the financial aid administrator identified on the loan application.

These efforts must be completed by the date of default (for purposes of skip tracing, the "default" deadline is interpreted to be up until the lender files the default claim with the guaranty agency so that the lender can still keep working the account up to the last moment to avert the filing of a default claim) with no gap of more than 45 days between attempts to contact those individuals or entities. Upon receipt of information indicating that it does not know the borrower's current address, the lender shall discontinue the collection efforts described in the Compliance Requirements sections G through I above.

If the lender is unable to ascertain the borrower's current address despite its performance of the activities described in the first paragraph above, the lender is excused thereafter from performance of the collection activities set forth in Compliance areas G through J of this section unless it receives communication indicating the borrower's address **before the 241st day of delinquency** (the 301st day for loans payable in less frequent installments than monthly).

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

(NOTE: Loans scheduled in Sections G, H, I & J may also be included in this category.) For the sample loans that were delinquent 241 days or greater and where a final demand letter was not sent, or within 10 days of receiving information indicating that it does not know the borrower's current address (which may be less than 241 days):

1. Using Table 2K, schedule the loans where **required** skip tracing procedures should have been performed within 10 days of receipt of information indicating that the lender or lender servicer did not know the borrower's current address. Enter the number of loans as the total of Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if the lender or lender servicer records **document** that required skip tracing process started within 10 days of the entity's receipt of information indicating that it did not know the borrower's current address and where efforts were completed by the date of default. Total Column B.
3. Transfer the totals from columns A & B to Table 2, Line K, Columns A & B respectively.

L. Compliance Requirement - Due Diligence for Loan Endorsers

(NOTE: These requirements are applicable when an endorser has signed the loan. Currently, endorsers are required only for PLUS loans, however, some Stafford or SLS loans originated prior to July 1, 1994 may have been signed by an endorser.)

Before filing a default claim on a loan with an endorser the lender shall:

- ▶ Make a diligent effort to contact the endorser by telephone.
- ▶ Send the endorser on the loan **two** letters advising the endorser of the delinquent status of the loan and urging the endorser to make the required payments on the loan.

At least one letter must warn the endorser that if the loan is not paid, the lender will assign the loan to the guaranty agency that, in turn, will report the default to all national credit bureaus. In addition, the letter should state that the agency may institute proceedings to offset the endorser's State and Federal income tax refunds and other payments to the endorser by the Federal Government, garnish the endorser's wages, and assign the loan to the Federal Government for litigation against the endorser.

- ▶ On or after the 241st day of delinquency (the 301st day for loans payable in installments less frequent than monthly) the lender shall send a final demand letter to the endorser requiring repayment of the loan in full and notifying the endorser that a default will be reported to a national credit bureau. The lender shall allow the endorser at least 30 days after the date the letter is mailed to respond to the final demand letter and to bring the loan out of default before filing a default claim on the loan.
- ▶ Unless the final demand letter [see Compliance Item J above] has already been sent, upon receiving information indicating that it does not know the endorser's current address or telephone number, the lender must diligently attempt to locate the endorser through the use of normal commercial skip-tracing techniques. This effort **must** include an inquiry to directory assistance.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

Due Diligence Requirements

For the sampled loans that were delinquent 1-270 days (330 if installments are less than monthly):

1. Using Table 2L1, schedule the loans that should have had telephone efforts made and collection letters sent. Enter the total **required** due diligence efforts for each loan in the applicable Column A. Total each Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in the applicable Column B if the lender or lender servicer records **document** that the required due diligence procedures were performed. Total each Column B.
3. Sum the Column A and B totals and enter in the Grand Total column.
4. Transfer the Grand Total amounts to Table 2, row L1, columns A & B respectively.

Skip Tracing Requirements

For the sampled loans that were delinquent 1-270 days (330 if installments are less than monthly) **and** where the final demand letters have not been sent:

1. Using Table 2L2, schedule the loans that should have had skip tracing procedures performed. Enter the total **required** skip tracing procedures in column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if the lender or lender servicer records **document** that the required skip tracing procedures were performed. Total Column B.
3. Transfer the totals of Columns A & B to Table 2, row L2, columns A & B respectively.

M. Compliance Requirement - Default Aversion.

Not earlier than the 60th day and no later than the 120th day of delinquency, a lender must request default aversion assistance from the guaranty agency that guarantees the loan.

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

For each of the delinquent or defaulted loans included in the sample:

1. Using Table 2M, schedule the loans where **required** default aversion assistance from the loan guaranty agency should have been requested. Enter the total number of loans in Table 2M, Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if the lender or lender servicer records **document** that default aversion assistance was requested within the time period. Total Column B.
3. Transfer the totals of Columns A & B to Table 2, Line M, columns A & B respectively.

N. Transfer Totals**Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner**

1. Sum Table 2, columns A & B.
2. Transfer the totals to the Summary Table, Line 2, columns A & B respectively.

3. TIMELY CLAIM FILINGS WITH THE GUARANTY AGENCY

The practitioner is to perform agreed-upon procedures to test whether the lender or lender servicer has filed timely claims with the guaranty agency concerning death, disability, closed school, false certification, bankruptcy (34 C.F.R. § 682.402) and for the timely filing of default claims (34 C.F.R. § 682.406(a)(5)).

The lender or lender servicer is required to maintain records necessary to document the validity of a claim against the loan guarantee. **[34 C.F.R. § 682.414(a)(4)(ii)]**

Items To Be Filed (For information purposes to independent practitioners only)

The lender or lender servicer is required to provide the guaranty agency with:

- ▶ The original promissory note or a copy of the promissory note certified by the lender as true and exact. [Note: For default claims, guaranty agencies may permit lenders to retain the note.]
- ▶ The loan application, if a separate loan application was provided to the lender. [Note: For default claims, guaranty agencies may permit lenders to retain the loan application.]
- ▶ In the case of a death claim, an original or certified death certificate, or other documents that formed the **basis** for the determination of death as described in 34 C.F.R. § 682.402(b).
- ▶ In the case of a disability claim, a copy of the certification of disability as described in 34 C.F.R. § 682.402(c)(2).
- ▶ In the case of a closed school claim the documentation described in 34 C.F.R. § 682.402(d)(3), or any other documentation as the Secretary may require.
- ▶ In the case of a false certification claim, the documentation described in 34 C.F.R. § 682.402(e)(3).
- ▶ In the case of a bankruptcy claim as described in 34 C.F.R. § 682.402(f):

Evidence that a bankruptcy petition has been filed, all pertinent documents sent to or received from the bankruptcy court by the lender, and an assignment to the guaranty agency of any proof of claim filed by the lender regarding the loan;

AND

A statement of any facts of which the lender is aware that may form the basis for an objection or exception to the discharge of the borrower's loan obligation in bankruptcy and all documents supporting those facts.

A. Compliance Requirement - Filing Deadlines for Death, Disability, Closed School, False Certification, or Bankruptcy

A lender or lender servicer shall file claims as follows:

Death or disability - within 60 days of the date on which the lender determines that a borrower (or a student on whose behalf a parent obtained a PLUS loan) has died or is totally and permanently disabled (34 C.F.R. § 682.402(g)(2)(i)).

Closed School - no later than 60 days after the borrower submits to the lender the written request and a sworn statement described in 34 C.F.R. § 682.402(d)(3) or after the lender is notified to do so by the Secretary or the Secretary's designee or by the guaranty agency (34 C.F.R. § 682.402(g)(2)(ii)).

False Certification Claim - no later than 60 days after the borrower submits to the lender the written request and a sworn statement described in 34 C.F.R. § 682.402(e)(3) or after the lender is notified to do so by the Secretary or the Secretary's designee or by the guaranty agency (34 C.F.R. § 682.402(g)(2)(iii)).

Unpaid Refund Discharge - in the case of an unpaid refund discharge request, the Lender must provide the guaranty agency with documentation related to the borrower's qualification for discharge. [*Note: Although this requirement is included in the regulations, there are no specific required time frames for submission to the guaranty agency. Thus, the auditors will not be required to test this area during the Exceptional Performer audit.*]

Bankruptcy - by the earlier of:

30 days after the date the lender receives a notice of first meeting of creditors. (34 C.F.R. § 682.402(g)(2)(iv)(A)).

OR

15 days after the lender is served with a complaint or motion to have the loan determined to be dischargeable on grounds of undue hardship, or, if the lender secures an extension of time within which an answer may be filed, 25 days before the expiration of that extended period, whichever is later (34 C.F.R. § 682.402(g)(2)(iv)(B)).

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

For each of the sampled loans affected by death, disability, closed school, false certification, or bankruptcy:

1. Using Table 3A, schedule the loans where the lender should have filed death, disability, closed school, false certification, or bankruptcy claims within the **required** time frames stated above. Enter the total number of loans in Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in column B if the lender or lender servicer records **document** that a claim was filed in a timely manner with the guaranty agency. Total Column B.
3. Transfer the totals of Columns A & B to Table 3, Line A, columns A & B respectively.

B. Compliance Requirement - Filing Requirements for Default Claims

A lender or lender servicer shall file default claims with the guaranty agency within 90 days of default (34 C.F.R. § 682.406(a)(5)).

Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner

For each of the sampled defaulted loans:

1. Using Table 3B, schedule the loans where the lender should have filed default claims with the guaranty agency within the **required** time frames stated above. Enter the total number of loans in Column A.
2. For each of the loans scheduled in Step 1, enter a 1 in Column B if the lender or lender servicer records **document** that a claim was filed in a timely manner with the guaranty agency. Total Column B.
3. Transfer the totals of Columns A & B to Table 3, Line B, columns A & B respectively.

C. Transfer Totals**Agreed-Upon Procedure to be Performed by the Lender or Lender Servicer Practitioner**

1. Sum Table 3, columns A & B.
2. Transfer the totals to the Summary Table, Line 3, columns A & B respectively.

4. CALCULATION OF PERFORMANCE COMPLIANCE PERCENTAGE

Agreed-Upon Procedure to be Performed by The Lender or Lender Servicer Practitioner

- Using the "required" and "documented" totals from the Summary Table in Appendix E, statistically calculate the lower limit of the lender or lender servicer's compliance performance percentage for performing the requirements for converting FFELP loans to repayment, collecting delinquent and defaulted loans, and timely claim filing, as follows:

The total number of **required** activities represents the *sample size* for purposes of evaluating the statistical sample results. The total number of **documented** activities divided by the sample size is the *proportion of occurrence of a characteristic, or P*.

Step 1. To compute *P*, divide the total **documented** activities [Summary Table, Column B Total] by the *sample size* [Summary Table, Column A Total].

$$P = \frac{\text{Documented Activities}}{\text{Sample Size}}$$

Step 2. Compute the *standard error of proportion*. Calculate the square root of the *variance* [e.g. $P(1-P)$] divided by the *sample size minus one*.

$$\text{Standard Error of Proportion} = \sqrt{\frac{(P) \times (1-P)}{\text{Sample Size} - 1}}$$

Step 3. Compute the *relative error*. Divide the *standard error of proportion* by the *proportion*.

$$\text{Relative Error} = \frac{\text{Standard Error of Proportion}}{\text{Proportion}}$$

Step 4. Compute the *lower limit* of the estimated compliance performance percentage. Using the T factor of 1.96 [infinite universe] for the required 95% confidence level, (1.645 for the required 90% confidence level for quarterly audits) subtract the *relative error x (times) T* from *P*.

$$P - (\text{Relative Error} \times T)$$

Appendix E to this guide includes completed tables for example purposes. Page E-1 also provides an example of a completed summary table, including the computation of the statistical projection of the lower limit of the compliance performance percentage.

SECTION III

REPORTING

REPORTING PACKAGE

Management Assertion

As required by the Attestation Standards, the lender or lender servicer management should provide an assertion to the practitioner. The assertion should be made as a result of management's evaluation and determination of a compliance performance percentage of at least 97% pertaining to converting FFELP loans to repayment, collecting delinquent loans, and timely claim filings with the guaranty agency. For quarterly engagements, management's assertion should be changed to reflect the required 97% average for the quarter, 97% or higher for 2 consecutive months, and performance at 90% or higher for any one month. NOTE: Management must provide the required assertions (97% and 90% respectively as identified above for quarterly engagements) for the fourth quarter, even if the practitioner chooses to include coverage of the fourth quarter activity into their annual attestation engagement.

The assertion should be presented in writing in a representation letter or another written communication from the lender or lender servicer. The written assertion should clearly identify the point in time or the period of time covered. (Appendix B, Example 2 provides an example).

NOTE: Failure of the lender or lender servicer to furnish a written assertion constitutes a limitation on the performance of the engagement sufficient to require the practitioner to withdraw from the engagement.

Practitioner's Reporting Package

The practitioner's reporting package should be submitted to the lender or lender servicer's governing body (for example, Board of Directors) and/or President, as appropriate. The report cover should clearly indicate the period covered by the report. **[NOTE: If the subsequent annual compliance engagement (required after receiving designation) includes coverage of fourth quarter activity, practitioners are to compute and report a compliance performance percentage for the fourth quarter. The reporting however, should be made as part of the annual engagement report. See Management Assertion Section in part II of this guide].**

The following comprise the practitioner's reporting package. Examples are found in Appendix B.

1. A report based on an agreed-upon procedures attestation engagement on the lender's assertion identified in Section II (Appendix B, Example 1).
2. Summary Schedule of Required and Documented Due Diligence Activity (page G-1); Table 1 (page G-2); Table 2 (page G-3); and Table 3 (page G-17). (NOTE: The supporting

Tables on pages G-4 through G-17 are provided as worksheets for practitioners and should be completed and retained in the working papers)

3. If a separate report on illegal acts which could result in criminal prosecution was submitted in accordance with the instructions in Section I of this guide, it should be included as part of the reporting package.
4. Schedule of Audit Findings (Appendix B, Example 3). This Guide provides for procedures and reporting that reflects non-compliance concerning the three responsibilities that are material to the subject matter of this engagement: (1) Conversions of Loans to Repayment Status; (2) Collection of Delinquent/Defaulted Loans; and (3) Timely Reporting/Claim Filings with Guaranty Agencies. Any other material findings of noncompliance disclosed that are required to be reported by *Government Auditing Standards* should be included in a separate Schedule of Audit Findings.
5. Information Sheet (Appendix B, Example 4). The practitioner should complete and submit an information sheet containing the following:
 - A. Complete address and telephone number of Firm
 - B. Name of Partner In Charge of Audit

LENDER/LENDER SERVICER SUBMISSION PACKAGE

To Receive Designation

A lender or lender servicer must submit to the Secretary:

1. A written request for designation for EP which includes:
 - (1) An applicant's name and address;
 - (2) Contact person;
 - (3) Lender or lender servicer ED identification number, if applicable;
 - (4) Name and address of applicable guarantors; and
 - (5) A copy of an annual financial audit, or a lender, may submit a copy of an annual audit required under 34 C.F.R. § 682.305(c), if the audit period ends no more than 90 days prior to the date the lender submits its request for designation.

A servicer may submit a copy of an annual financial audit required under 34 C.F.R. § 682.416(e), if the audit period ends no more than 90 days prior to the date the servicer submits its request for designation. NOTE: Servicers may submit an independent financial audit conducted for its lenders to comply with the requirement of 34 C.F.R. § 682.305(c), if that audit encompassed a review of the servicer's entire portfolio.

2. If the applicant is a servicer, a statement signed by the owner or chief executive officer of the applicant certifying that the applicant meets the definition of a servicer contained in 34 C.F.R. § 682.415(d)(3).
3. A complete copy of the *Practitioner's Reporting Package* required by this Guide. (See Practitioner's Reporting Package section.) This reporting package should be retained by the lender or lender servicer for a period of five years, unless notified by ED to retain for a longer period.

An EP application will not be considered complete for the Secretary to act on until all required submissions as identified above are submitted to:

Financial Partners
Federal Student Aid
Union Center Plaza, 11th Floor
400 Maryland Ave., S.W.
Washington, D.C. 20202-5138

The Secretary will notify the lender or lender servicer within 60 days of its receipt of the request for EP designation, which includes the required items identified above.

Copies of all required application information as set forth above, should also be sent to each appropriate guaranty agency as set forth in 34 C.F.R. § 682.415(a)(4).

Subsequent Quarterly Compliance Engagements

A lender or lender servicer must submit to the Secretary and to the appropriate guaranty agencies within 90 days following the end of each of the 3 quarters:

1. A letter which includes:
 - (1) An applicant's name and address;
 - (2) Contact person;
 - (3) Lender or lender servicer ED identification number, if applicable;
 - (4) Name and address of applicable guarantors
2. A complete copy of the *Practitioner's Reporting Package* required by this Guide (see Practitioner's Reporting Package section) covering the quarterly engagement. This reporting package should be retained by the lender or lender servicer for a period of five years, unless notified by ED to retain for a longer period.

Subsequent Annual Compliance Engagements

A lender or lender servicer must submit to the Secretary and to the appropriate guaranty agencies within 90 days following the end of each annual period:

1. A letter which includes:
 - (1) An applicant's name and address;
 - (2) Contact person;
 - (3) Lender or lender servicer ED identification number, if applicable;
 - (4) Name and address of applicable guarantors
 - (5) A copy of an annual financial audit, or a lender, may submit a copy of an annual audit required under 34 C.F.R. § 682.305(c), if the audit period ends no more than 90 days prior to the date the lender submits its request for designation.

A servicer may submit a copy of an annual financial audit required under 34 C.F.R. § 682.416(e), if the audit period ends no more than 90 days prior to the date the servicer submits its request for designation. NOTE: Servicers may submit an independent financial audit conducted for its lenders to comply with the requirement of 34 C.F.R. § 682.305(c), if that audit encompassed a review of the servicer's entire portfolio.

2. If the applicant is a servicer, a statement signed by the owner or chief executive officer of the applicant certifying that the applicant meets the definition of a servicer contained in 34 C.F.R. § 682.415(d)(3).
3. A complete copy of the *Practitioner's Reporting Package* required by this Guide (see Practitioner's Reporting Package section) covering the subsequent annual engagement. This reporting package should be retained by the lender or lender servicer for a period of five years, unless notified by ED to retain for a longer period.

APPENDIX A

OIG TECHNICAL ASSISTANCE CONTACT POINT FOR GUIDE

Please write, fax, or email all questions concerning the EP Agreed-Upon Procedures Guide to the following address and/or telephone number. In contacting this office, make sure that you provide the name, address, and telephone and fax number of the person requesting assistance so that prompt and timely assistance can be provided.

U.S. Department of Education
Office of Inspector General
100 Penn Square East, Suite 502
Philadelphia, PA 19107

Fax: (215) 656-8628

E-Mail: hugh.monaghan@ed.gov

A copy of this guide is available on the ED/OIG Non-Federal Audit Team Home Page on the Internet at the following URL: <http://www.ed.gov/offices/OIG/nonfed>.

**APPENDIX B
EXAMPLE 1****ILLUSTRATIVE****REPORT ON APPLYING AGREED-UPON PROCEDURES
ATTESTATION ENGAGEMENT¹****Independent Accountants' Report**

To [Lender or Lender Servicer]

We have performed the procedures enumerated below, and as set forth in more detail in the Agreed-Upon Procedures Guide, Exceptional Performance Status For Federal Family Education Loan Program (FFELP) Participating Lenders and Lender Servicers (Guide), issued in May 2003 by the U.S. Department of Education, Office of Inspector General. Those procedures, which were agreed to by the [insert *Lender or Lender servicer* name] and the U.S. Department of Education were performed solely to assist the U.S. Department of Education in evaluating management's assertion about [insert *Lender or Lender servicer* name] compliance performance percentage during the period [insert period of management's assertion] related to [insert *Lender or Lender servicer* name] eligibility for exceptional performer status. This agreed-upon procedures engagement was performed in accordance with the attestation standards established by the American Institute of Certified Public Accountants and *Government Auditing Standards* issued by the Comptroller General of the United States. The sufficiency of those procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described in the guide either for the purpose for which this report has been requested or for any other purpose.

¹ This is an illustration of an agreed-upon procedures report on management's assertion about an entity's compliance with specified requirements as set forth in Statement on Standards for Attestation Engagements, Agreed-Upon Procedures Engagements.

In accordance with specific instructions in the Guide:

We selected a statistical sample of loans serviced during the [year or quarter] ending [insert period ending date].

For each loan in the sample, we identified the required activities pertaining to converting loans to repayment status, collecting delinquent loans, and timely reporting to guaranty agencies.

For each required activity, we reviewed loan records to determine if its successful performance was documented.

We tabulated the results and calculated [insert lender or lender servicer name]'s compliance performance percentage(s) for converting the loans to repayment status, collecting delinquent loans, and timely reporting to guaranty agencies.

Our tabulations of the number of required and documented activities for the period are shown in the attached tables. For the [year or quarter] ending [insert period ending date], we computed [insert *Lender or Lender servicer* name]'s compliance performance percentage to be 97% or higher, applicable to each loan, on average, pertaining to the requirements cited above. [See footnotes² and³, respectively, for quarterly and subsequent annual audits.]

We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on management's assertion. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use of [insert *Lender or Lender servicer* name] management and the U.S. Department of Education, and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes. However, this report is a matter of public record and its distribution is not limited.

[Firm Signature]

[Date]

²If a quarterly engagement, add the following sentence. "We also computed a compliance performance percentage of 97% or higher for two consecutive months within the quarter and 90% or higher for any one month."

³If an annual engagement that also includes coverage of the fourth quarter, add the following sentence. "We also computed compliance performance percentages of 97% or higher for the fourth quarter of the period, 97% or higher for two consecutive months within the fourth quarter, and 90% or higher for any month within the fourth quarter."

**APPENDIX B
EXAMPLE 2****ILLUSTRATIVE****MANAGEMENT'S ASSERTION ON COMPLIANCE
WITH REQUIREMENTS IN SUPPORT OF
EXCEPTIONAL PERFORMANCE STATUS**

NOTE: The following assertion must be made in writing by management to the practitioner, in a letter signed by an officer of the lender or lender servicer who in a position giving him/her the knowledge to make the assertions. In addition to these assertions, representations required by the AICPA *Attestation Standards for Agreed-Upon Procedures Compliance Engagements* must also be provided.

Assertion

We [insert Lender or Lender Servicer name] are responsible for complying with the requirements pertaining to converting loans to repayment status, collecting delinquent loans, and timely filing requirements with the guaranty agency, and we are responsible for establishing and maintaining an effective internal control structure over compliance. We have performed an evaluation of our compliance with the aforementioned requirements. Our evaluation covered the annual period from _____ to _____. Based on our evaluation, we determined an overall compliance performance percentage of 97% or higher applicable to each loan, on average, pertaining to these requirements during this period. [See footnotes ¹ and ² for quarterly and subsequent annual audits.]

¹For Quarterly Engagements, the preceding sentence should be revised as follows: "Based on our evaluation, we determined an overall compliance performance percentage of 97% or higher for the quarterly period _____ to _____, 97% or higher for two consecutive months within this period, and 90% or higher for any one month during this period applicable to each loan, on average, pertaining to these requirements."

²For subsequent annual engagements that also include coverage for the 4th quarter, the preceding sentence should be revised to: "Based on our evaluation, we determined a compliance performance percentage of 97% or higher for the annual period _____ to _____, 97% or higher for the fourth quarter period _____ to _____, 97% or higher for two consecutive months of the fourth quarter, and 90% or higher for any one month of the fourth quarter applicable to each loan, on average, pertaining to these requirements."

Representations

We have disclosed all known noncompliance items and have made available all documentation related to compliance with the aforementioned requirements. We have disclosed to the audit practitioner any matters known to us that contradict this assertion.

We have also disclosed to the audit practitioner any communications from the U.S. Department of Education, our internal auditors, other practitioners, or other parties concerning possible noncompliance with the aforementioned compliance requirements, including any communications received after the period identified above, up to the date of this letter. The following are our interpretations of compliance requirements that may be subject to varying interpretation: [List interpretations]

We have also disclosed all known noncompliance, if applicable, occurring subsequent to the period covered by the period covered by the compliance attestation engagement [specify period].

**APPENDIX B
EXAMPLE 3****SCHEDULE OF AUDIT FINDINGS**

Government Auditing Standards, Paragraph 6.32, require the disclosure of violations of provisions of contracts and grants agreements and abuse that are material to the subject matter or assertion of the engagement.

This agreed-upon procedures engagement focuses on the lender (or lender servicer's) compliance with requirements relating to three key responsibilities:

5. Conversions of Loans to Repayment Status
6. Collection of Delinquent/Defaulted Loans; and
7. Timely Reporting/Claim Filings with Guaranty Agencies

By design, this Guide provides for procedures and reporting that reflects non-compliance concerning these three responsibilities that are material to the subject matter of this engagement. Thus, the auditor need not include findings of material non-compliance related to these three key responsibilities that are so covered in the reporting provided by this Guide in a separate Schedule of Audit Findings. [However, the auditor may elect to provide additional information about such findings in a Schedule of Audit Findings, e.g., information about causes, management's position, and recommendations.]

Any other material findings of noncompliance disclosed that are required to be reported by *Government Auditing Standards* should be included in a Schedule of Audit Findings. In reporting such findings, auditors should heed the following guidance.

Government Auditing Standards state that to the extent possible, in presenting findings, auditors should develop the elements of criteria, condition, cause and effect. Also, if auditors are able to sufficiently develop the findings, auditors should provide recommendations for corrective action. See Paragraph 6.34 of *Government Auditing Standards (2003 Revision)* for additional guidance.

To be of value, reported findings must contain adequate information to give findings perspective and to allow the managers to make appropriate decisions.

In reporting instances of noncompliance, the practitioner should clearly describe the noncompliance found, including the loans affected. In identifying the loans affected, personal identifiers (e.g., names and social security numbers) must not be used.

Other information that may identify the cause (system weakness, etc.) may be provided if known by the practitioner. However, the practitioner is not required to determine the cause of noncompliance identified during this engagement nor is the practitioner required to evaluate the entity's internal control structure.

**APPENDIX B
EXAMPLE 4**

ILLUSTRATIVE

AUDITOR INFORMATION SHEET

Audit Firm: ABC Auditing Co
232 South Hickory
Suite 202
Kansas City, MO 64151

Tel No.: (816) XXX-XXXX
Fax No.: (816) XXX-XXXX

Partner in Charge: Thomas Jefferson

APPENDIX C**DEFINITIONS**

[NOTE: The following definitions are listed for convenience and are the current definitions unless indicated otherwise. Please refer to the specific citation for clarification.]

Collection activity

For purposes of this section, the term "collection activity" with respect to a loan means:

- (1) Mailing or otherwise transmitting to the borrower at an address that the lender reasonably believes to be the borrower's current address a collection letter or final demand letter that satisfies the timing and content requirements of paragraphs (c), (d), (e), or (f) of 34 C.F.R. § 682.411;
- (2) Making an attempt to contact the borrower by telephone to urge the borrower to begin or resume repayment;
- (3) Conducting skip-tracing efforts, in accordance with paragraph (h)(1), or (m)(1)(iii) of 34 C.F.R. § 682.411, to locate a borrower whose correct address or telephone number is unknown to the lender;
- (4) Mailing or otherwise transmitting to the guaranty agency a request for default aversion assistance available from the agency on the loan at the time the request is transmitted; or
- (5) Any telephone discussion or personal contact with the borrower so long as the borrower is apprised of the account's past-due status.

Default

The failure of a borrower and endorser, if any, or joint borrowers on a PLUS or Consolidation loan, to make an installment payment when due, or to meet other terms of the promissory note, the Act, or regulations as applicable, if the Secretary or guaranty agency finds it reasonable to conclude that the borrower and endorser, if any, no longer intend to honor the obligation to repay, provided that this failure persists for:

Prior to October 1, 1998

- (1) 180 days for a loan repayable in monthly installments, or**
- (2) 240 days for a loan repayable in less frequent installments [34 C.F.R. § 682.200 (1993)]**

Effective October 1, 1998 and After

- (1) 270 days for a loan repayable in monthly installments, or
- (2) 330 days for a loan repayable in less frequent installments [34 C.F.R. § 682.200]

Diligent Effort for Telephone Contact [34 C.F.R. § 682.411(m)]

For purposes of this section, the term "diligent effort" with respect to telephone contact means:

- (i) A successful effort to contact the borrower by telephone;
- (ii) At least two unsuccessful attempts to contact the borrower by telephone at a number that the lender reasonably believes to be the borrower's correct telephone number; or
- (iii) An unsuccessful effort to ascertain the correct telephone number of a borrower, including, but not limited to, a directory assistance inquiry as to the borrower's telephone number, and sending a letter to or making a diligent effort to contact each reference, relative, and individual identified in the most recent loan application or most recent school certification for that borrower held by the lender. The lender may contact a school official other than the financial aid administrator who reasonably may be expected to know the borrower's address or telephone number.

If the lender is unable to ascertain the borrower's correct telephone number despite its performance of the activities described in 34 C.F.R. § 682.411(m)(1)(iii), the lender is excused thereafter from attempting to contact the borrower by telephone unless it receives a communication indicating the borrower's current telephone number before the 211th day of delinquency (the 271st day for loans repayable in installments less frequently than monthly).

The activities specified by 34 C.F.R. § 682.411(m)(1) (i) or (ii) (with references to "the borrower" understood to mean endorser, reference, relative, or individual as appropriate), meet the requirement that the lender make a diligent effort to contact each endorser or each reference, relative, or individual identified on the borrower's most recent loan application or most recent school certification.

Due Diligence Requirements [34 C.F.R. § 682.415(d)]

Means the activities required to be performed by lenders (or servicers on their behalf) on delinquent loans pursuant to § 682.411(c) through (h), and (m) and (n), if applicable.

Eligible Loan [34 C.F.R. § 682.415(d)]

Means a loan made, insured, or guaranteed under part B of title IV of the Act.

Lender [34 C.F.R. § 682.200]

The term "eligible lender" is defined in section 435(d) of the Higher Education Act of 1965, as amended, as follows:

ELIGIBLE LENDER.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (6), the term “eligible lender” means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless

(I) it is a bank which is wholly owned by a State, or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to the enactment of the Higher Education Amendments of 1992,

(II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part, or

(III) it is a bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(1)) that is a wholly owned subsidiary of a nonprofit foundation, the foundation is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(1) of such Code, and the bank makes loans under this part only to undergraduate students who are age 22 or younger and has a portfolio of such loans that is not more than \$5,000,000;

- (B) a pension fund as defined in the Employee Retirement Income Security Act;
- (C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;
- (D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;
- (E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;
- (F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440, or an agency of any State functioning as a secondary market;
- (G) for purposes of making loans under sections 428A(d), 428B(d), 428C, and 439(q), the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440;
- (H) for purposes of making loans under sections 428(h) and 428(j), a guaranty agency;
- (I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950));
- (J) for purpose of making loans under section 428C, any nonprofit private agency functioning in any State as a secondary market; and
- (K) a consumer finance company subsidiary of a national bank which, as of the date of enactment of this subparagraph, through one or more subsidiaries: (i) acts as a small business lending company, as determined under regulations of the Small Business Administration under section 120.470 of title 13, Code of Federal Regulations (as such section is in effect on the date of enactment of this subparagraph); and (ii) participates in the program authorized by this part pursuant to subparagraph (C), provided the national bank and all of the bank's direct and indirect subsidiaries taken together as a whole, do not have, as their primary consumer credit function, the making or holding of loans made to students under this part.

State [34 C.F.R. § 600.2]

A State of the Union, American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. The latter three are also known as the Freely Associated States.

Servicer [34 C.F.R. § 682.415(d)]

An entity that services and collects student loans and that--

- (i) Has substantial experience in servicing and collecting consumer loans or student loans;
- (ii) Has an annual independent financial audit that is furnished to the Secretary and any other parties designated by the Secretary;
- (iii) Has business systems capable of meeting the requirements of part B of title IV of the Act and applicable regulations;
- (iv) Has adequate personnel knowledgeable about the student loan programs authorized by part B of title IV of the Act; and
- (v) Does not knowingly have any owner, majority shareholder, director, or officer of the entity who has been convicted of a felony.

Transfer [34 C.F.R. § 682.411 (k)]

For purposes of 34 C.F.R. § 682.411, the term "transfer" with respect to a loan means any action, including, but not limited to, the sale of the loan, that results in a change in the system used to monitor or conduct collection activity on a loan from one system to another.

APPENDIX D**DUE DILIGENCE REQUIREMENTS****Exemptions to Required Telephone Contacts: [34 C.F.R. § 682.411 (a) and (d)(4)]**

A lender need not attempt to contact by telephone any borrower

- (i) Who is incarcerated;
- (ii) Who is residing outside of a State,¹ Mexico or Canada;
- (iii) Whose telephone number is unknown;
- (iv) Who is more than 120 days delinquent (180 days delinquent for a loan repayable in installments less frequent than monthly) following the lender's receipt of
 - (A) A payment on the loan;
 - (B) A correct address for the borrower;
 - (C) A dishonored check received from the drawee as a payment on the loan; or
 - (D) The expiration of an authorized deferment or forbearance.

Telephone Number Not Available [34 C.F.R. § 682.411 (g)]

Collection procedures when a borrower's telephone number is not available. Upon completion of a diligent but unsuccessful effort to ascertain the correct telephone number of a borrower as required under compliance requirements "B" or "H" in Section II, the lender is excused from any further efforts to contact the borrower by telephone, unless the borrower's number is obtained before the 211th day of delinquency (271st day for loans payable repayable in installments less frequently than monthly).

¹ As defined in Appendix C.

APPENDIX E

**SCHEDULE OF REQUIRED & DOCUMENTED DUE DILIGENCE
(EXAMPLE SUMMARY TABLE)**

	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
1. Conversion of Loans to Repayment	250	248
2. Collection of Delinquent/Defaulted Loans	1,404	1,374
3. Timely Claim Filings with Guaranty Agency	15	13
TOTAL COMPLIANCE ACTIONS (SECTIONS 1, 2 & 3)	1,669	1,635

Example Computation of Compliance Performance Percentage

Sample Size = 1,669
 P = .97962852 (1,635 / 1,669)
 1-P = .02037148 (1 - .97962852)

$$\text{Standard Error of Proportion} = \sqrt{\frac{(.97962852) \times (.02037148)}{1,668}}$$

or

Standard Error of Proportion = 0.0034496

Relative Error = $\frac{0.0034496}{.97962852}$

or

Relative Error = 0.0035213

Lower Limit of Compliance % = P - (0.0035213 x 1.96¹)
 at 95% Confidence Level = .97962852 - .006901748

or = .9727268

¹ For quarterly engagements, practitioners should use 1.645, the T factor for the required 90% confidence level.

Thus, for this example, the practitioner should be 95% confident that the lower limit of the lender's or lender servicer's compliance performance percentage is not below .9727268. This lower limit is above the required 97% minimum compliance performance requirement. Thus, this lender or lender servicer would meet the minimum requirement for designation as EP.

**1. CONVERSION OF LOANS TO REPAYMENT
(EXAMPLE TABLE 1)**

	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
A. Consolidated Loans		
1. Repayment Period Begin Date	25	24
2. First Payment Due Date	25	25
B. PLUS Loans		
1. Repayment Period Begin Date	25	25
2. First Payment Due Date	25	25
C. SLS Loans		
1. Repayment Period Begin Date	25	24
2. First Payment Due Date	25	25
D. Stafford Loans		
1. Repayment Period Begin Date	50	50
2. First Payment Due Date	50	50
TOTAL COMPLIANCE ACTIONS (SECTIONS 1)	250	248

NOTE: This example does not have all items entered that would normally be completed on this engagement.

**2. COLLECTION OF DELINQUENT LOANS
(EXAMPLE TABLE 2)**

(PRE-1999 REGULATIONS)	# OF LOANS	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
A. 1 - 10 Days Delinquent. Written Notices (Table 2A)	150	150	148
B. 11-180 Days Delinquent			
1. Telephone Efforts (Table 2B1)	40	160	155
2. Collection Letters (Table 2B2)	40	160	158
3. Receipt of Payment, Address, etc. (Table 2B3)	8	22	21
C. 151 Days or Greater (Final Demand Ltrs) (Table 2C)	10	10	10
D. Skip Tracing (Table 2D)	30	30	29
E. Loan Endorser (PLUS Loans Only)			
1. Tel./Letters (Table 2E1)	20	60	59
2. Skip Tracing (Table 2E2)	5	5	5
F. Preclaims Assistance (Table 2F)	100	100	99
(1999 REGULATIONS)			
G. 1 - 15 Days Delinquent. Written Notices (Table 2G)	150	150	147
H. 16-180 Days Delinquent			
1. Telephone Efforts (Table 2H1)	40	160	155
2. Collection Letters (Table 2H2)	40	160	159
3. Receipt of Payment, Address, etc. (Table 2H3)	8	17	14
I. 181-270 Days Delinquent (Diligent Effort) (Table 2I)	15	15	14
J. 241 Days or Greater (Final Demand Ltrs) (Table 2J)	10	10	10
K. Skip Tracing (Table 2K)	30	30	30
L. Loan Endorser (PLUS Loans Only)			
1. Tel./Letters (Table 2L1)	20	60	58
2. Skip Tracing (Table 2L2)	5	5	5
M. Default Aversion (Table 2M)	100	100	98
TOTAL ACTIONS (A THROUGH M)		1404	1374

PRE-1999 REGULATIONS

**1-10 Days Delinquent
(150 Loans in sample)**

**Written Notices/Collection Letters
EXAMPLE TABLE 2A**

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)¹
Loan #1		1
Loan #2		1
Loan #3		1
etc.		145
Total	150²	148

¹ For each loan enter a "1" if the records document that the required written notice or collection letter was sent to the borrower (do not exceed "1" for each loan).

² Enter the number of loans in sample (where required written notices or collection letters should have been sent).

PRE-1999 REGULATIONS

11-180 Days Delinquent (11-240 days)

(40 Loans in sample)

Telephone Efforts
(EXAMPLE TABLE 2B1)

Sampled Loans	1 Effort Before 90 days		1 Effort After 90 days		Other Efforts		TOTAL	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1		1		1		2		4
Loan #2		0		1		2		3
Loan #3		1		0		1		2
etc.		36		36		74		146
Total	40¹	38	40¹	38	80²	79	160	155

Collection Letters
(EXAMPLE TABLE 2B2)

Sampled Loans	At least 2 letters contain warning		Other Letters		TOTAL	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1		2		2		4
Loan #2		2		2		4
Loan #3		2		2		4
etc.		74		72		146
Total	80²	80	80²	78	160	158

¹ 1 * (multiplied by) the number of sampled loans in this category.

² 2 * (multiplied by) the number of sampled loans in this category.

PRE-1999 REGULATIONS

If lender received loan payment, address correction, dishonored check, borrower's telephone number, or notification of expired forbearance or deferment, only the following is required:

(8 Loans in Sample)

TABLE 2B3

		Section I 11-90 (11-120) ⁴ days delinquent (6 loans in sample)				Section II 91-120 (121-180) ⁴ days delinquent (2 loans in sample)				ALL				
Sample Loans	2 Diligent Telephone Efforts		If both telephone efforts are unsuccessful, two forceful letter efforts are required		If only one telephone effort is successful, one forceful letter effort is required		1 Diligent Telephone Effort		If telephone effort is unsuccessful, one forceful letter effort is required		Other required activity to ensure no gap in collection activity > than 45 days		Total	
	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)
1	2	2	2	2									4	4
2							1	1	1	1	1	1	3	3
3	2	1											2	1
etc.	8	8	2	2	0	0	1	1	0	0	2	2	13	13
Total	12²	11	4²	4	0¹	0	2¹	2	1¹	1	3³	3	22	21

¹ = 1 *(multiplied by) the number of sampled loans in this category.

² = 2 *(multiplied by) the number of sampled loans in this category.

³ = Total number of collection activities required to ensure that there are no gaps greater than 45 days.

⁴ = If payments made less frequently than monthly.

PRE-1999 REGULATIONS

**Final Demand Letter
151 Days or Greater
(10 Loans in Sample)**

EXAMPLE TABLE 2C

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1	1	1
Loan #2	1	1
Loan #3	1	1
etc.	7	7
Total	10	10

**Skip Tracing Procedures
(30 Loans in Sample)**

EXAMPLE TABLE 2D

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ²
Loan #1		1
Loan #2		1
Loan #3		0
etc.		27
Total	30³	29

¹ For each loan enter the number of Final Demand Letters that the records document were sent to the borrower (do not exceed 1 for each loan).

² For each loan, enter a 1 in Column B if both skip tracing requirements included in Step 2 were met. Otherwise, enter a 0.

³ Enter the number of loans where skip tracing procedures should have been performed.

PRE-1999 REGULATIONS 1-180 Days Delinquent

Loan Endorser Due Diligence Requirements

(EXAMPLE TABLE 2E1)

Sampled Loans	1 Tel. Effort		1 Letter with warning		1 addtl ltr		Final Demand Ltr		Grand Total	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1		1		1		1		1		4
Loan #2		1				1		1		3
Loan #3		1		1		1		1		4
etc.		12		12		12		12		48
Total	15¹	15	15¹	14	15¹	15	15¹	15	60	59

Skip Tracing Procedures (EXAMPLE TABLE 2E2)

Sampled Loans where Final Demand Letter not sent	Upon lender's receipt of info. that endorser's address or phone # unknown, skip tracing includes at least 1 directory assistance inquiry	
	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
Loan #1		1
Loan #2		1
Loan #3		1
etc.		2
Total	5¹	5

¹ 1 * (multiplied by) the number of loans sampled in this category.

PRE-1999 REGULATIONS Preclaims Assistance (100 Loans in Sample)

EXAMPLE TABLE 2F

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1		1
Loan #2		1
Loan #3		1
etc.		96
Total	100²	99

**1-15 Days Delinquent
(150 Loans in sample)**

**Collection Letters
EXAMPLE TABLE 2G**

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ³
Loan #1		1
Loan #2		1
Loan #3		1
etc.		144
Total	150⁴	147

¹ For each loan enter a "1" if the required preclaims assistance was documented (do not exceed "1" for each loan).

² Enter the number of loans where preclaims assistance should have been performed.

³ For each loan enter a "1" if the records document that the required written notice or collection letter was sent to the borrower (do not exceed "1" for each loan).

⁴ Enter the number of loans where required written notices or collection letters should have been sent.

16-180 Days Delinquent (16-240 days) ¹

(40 Loans in sample)

Telephone Efforts

(EXAMPLE TABLE 2H1)

Sampled Loans	1 Effort Before 90 days		1 Effort After 90 days		Other Efforts (Max 2)		TOTAL	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1		1		1		2		4
Loan #2		0		1		2		3
Loan #3		1		0		0		1
etc.		36		35		76		146
Total	40²	38	40²	37	80³	80	160	155

16-180 Days Delinquent (16-240 days) ¹

Collection Letters

(40 Loans in sample)

(EXAMPLE TABLE 2H2)

Sampled Loans	At least 2 letters contain warning		Other Letters (Max 2)		TOTAL	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1		2		2		4
Loan #2		2		2		4
Loan #3		2		2		4
etc.		74		73		147
Total	80³	80	80³	79	160	159

¹ = If payments are made less frequently than monthly.

² = Enter the number of loans in sample.

³ = 2 * (Multiplied By) the number of loans in sample.

If lender received loan payment, address correction, dishonored check, borrower's telephone number, or notification of expired forbearance or deferment, only the following is required:

(8 Loans in Sample)
TABLE 2H3

		Section I 16-90 (16-120) ⁴ days delinquent (4 loans in sample)				Section II 91-120 (121-180) ⁴ days delinquent (4 loans in sample)				ALL				
Sample Loans	2 Diligent Telephone Efforts		If both telephone efforts are unsuccessful two forceful letter efforts are required		If only one telephone effort is successful, one forceful letter effort is required		1 Diligent Telephone Effort		If telephone effort is unsuccessful, one forceful letter effort is required		Other required activity to ensure no gap in collection activity > than 45 days		Total	
	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)
1	2	2			1	1							3	3
2							1	1			1	1	2	2
3	2	1											2	1
etc.	4	4	0	0	0	0	3	3	1	1	2	0	8	8
Total	8 ²	7	0 ²	0	1 ¹	1	4 ¹	4	1 ¹	1	3 ³	1	17	14

¹ = 1 *(multiplied by) the number of sampled loans in this category.

² = 2 *(multiplied by) the number of sampled loans in this category.

³ = Total number of collection activities required to ensure that there are no gaps greater than 45 days.

⁴ = If payments made less frequently than monthly.

1999 Regulations

181- 270 Days
 (15 Loans in Sample)
 Diligent Effort

EXAMPLE TABLE 2I

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1	1	1
Loan #2	1	0
Loan #3	1	1
etc.	12	12
Total	15	14

Final Demand Letter
 241 Days or Greater
 (10 Loans in Sample)

EXAMPLE TABLE 2J

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1	1	1
Loan #2	1	1
Loan #3	1	1
etc.	7	7
Total	10	10

¹ For each loan enter the number of Final Demand Letters that the records document were sent to the borrower (do not exceed 1 for each loan).

1999 Regulations

Skip Tracing Procedures (30 Loans in Sample)

EXAMPLE TABLE 2K

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1		1
Loan #2		1
Loan #3		1
etc.		27
Total	30²	30

¹ For each loan, enter a 1 in Column B if both skip tracing requirements included in Step 2 were met. Otherwise, enter a 0.

² Enter the number of loans where skip tracing procedures should have been performed.

1999 Regulations

1-270 Days Delinquent

Loan Endorser Due Diligence Requirements

(EXAMPLE TABLE 2L1)

Sampled Loans	1 Tel. Effort		1 Letter with warning		1 addtl ltr		Final Demand Ltr		Grand Total	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1		1		1		1		1		4
Loan #2		1				1		1		3
Loan #3		1		1		1		1		4
etc.		12		12		12		11		48
Total	15¹	15	15¹	14	15¹	15	15¹	14	60	58

Skip Tracing Procedures
(EXAMPLE TABLE 2L2)

Sampled Loans where Final Demand Letter not sent	Upon lender's receipt of info. that endorser's address or phone # unknown, skip tracing includes at least 1 directory assistance inquiry	
	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
Loan #1		1
Loan #2		1
Loan #3		1
etc.		2
Total	5¹	5

¹ 1 * (multiplied by) the number of loans sampled in this category.

1999 Regulations

Default Aversion (100 Loans in Sample)

EXAMPLE TABLE 2M

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1		1
Loan #2		1
Loan #3		1
etc.		95
Total	100²	98

¹ For each loan enter a "1" if the required preclaims assistance was documented (do not exceed "1" for each loan).

² Enter the number of loans where preclaims assistance should have been performed.

**3. TIMELY CLAIM FILINGS WITH GUARANTY AGENCY
(EXAMPLE TABLE 3)**

	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
A. Death, Disability, Bankruptcy Closed School & False Certif.	2	1
B. Default Claims	13	12
Total	15	13

**Death, Disability, Bankruptcy, Closed School
False Certification Claims
(EXAMPLE TABLE 3A)**

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)¹
Loan #1		1
etc.		0
Total	2²	1

**Default Claims
(EXAMPLE TABLE 3B)**

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)¹
Loan #1		1
Loan #2		1
etc.		10
Total	13²	12

¹ Enter a "1" for each loan in which the timely claim filing was documented.

² Enter the number of loans included in this category.

APPENDIX F

PART I
Statistical Sample Sizes for Compliance Testing
Five Percent Risk of Over Reliance

The American Institute of Certified Public Accountants (AICPA) publishes an Audit Guide, "Audit Sampling" [AICPA Audit Sampling Guide], which is available for purchase from the AICPA. For the required Annual Attestation, the practitioner should refer to Table A.1 of the AICPA Audit Sampling Guide (April 1, 2001 Edition), with accompanying instructions, to determine the sample size. Table A.1 of the AICPA Sampling Guide excludes identification of several combinations of expected population deviation and tolerable rates, that the practitioner may need for the engagement. The following information supplements Table A.1 of the AICPA Sampling Guide by providing the excluded information. Use of Table A.1 and the following supplemental information is appropriate for a large population. If a small population (less than 2000) is involved, the sample size should be adjusted. The AICPA Sampling Guide should be consulted in this regard.

Expected Population Deviation Rate	Tolerable Rate (with number of expected errors in parentheses)
Rate	3%
1.00%	257(3)
1.25%	303(4)
1.50%	392(6)
1.75%	604(11)
2.00%	846(17)
2.25%	1,692(38)

APPENDIX F**PART II****Statistical Sample Sizes for Compliance Testing
Ten Percent Risk of Over Reliance**

The American Institute of Certified Public Accountants (AICPA) publishes an Audit Guide, "Audit Sampling" [AICPA Audit Sampling Guide], which is available for purchase from the AICPA. For the required Quarterly Attestation, the practitioner should refer to Table A.2 of the AICPA Audit Sampling Guide (April 1, 2001 Edition), with accompanying instructions, to determine the sample size. Table A.2 of the AICPA Sampling Guide excludes identification of several combinations of expected population deviation and tolerable rates, that the practitioner may need for the engagement. The following information supplements Table A.2 of the AICPA Sampling Guide by providing the excluded information. Use of Table A.2 and the following supplemental information is appropriate for a large population. If a small population (less than 2000) is involved, the sample size should be adjusted. The AICPA Sampling Guide should be consulted in this regard.

Expected Pop. Deviation Rate	Tolerable Rate (with number of expected errors in parentheses)			
	2%	3%	4%	5%
1.00%	398(4)			
1.25%	708(9)			
1.50%	1,463(22)	265(4)		
1.75%		390(7)		
2.00%		590(12)		
2.25%		992(22)	277(6)	
2.50%		2,079(52)	353(9)	
2.75%			486(14)	
3.00%			730(22)	233(7)

Also, for the combination of a 4.00% Expected Pop. Deviation Rate and 7% Tolerable Rate, for engagements performed using this Guide the sample size and expected number of errors should be 149(6).

APPENDIX G

Summary Table

SUMMARY SCHEDULE OF REQUIRED AND DOCUMENTED DUE DILIGENCE ACTIVITY

	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
1. Conversion of Loans to Repayment		
2. Collection of Delinquent/Defaulted Loans		
3. Timely Filings with Guaranty Agency		
TOTAL COMPLIANCE ACTIONS (SECTIONS 1, 2 & 3)		

Computation of Compliance Performance Percentage

Sample Size = (Column A Total)
P = (Column B Total / Column A Total)
1-P = (1-P Value)

Standard Error of Proportion = $\sqrt{\frac{(P) \times (1-P)}{(Column\ A\ Total - 1)}}$

or
Standard Error of Proportion =

Relative Error = $\frac{Std\ Error\ of\ Proportion}{P}$

or
Relative Error =

Lower Limit of Compliance % = $P - (Relative\ Error \times 1.96^1)$
 at 95% Confidence Level using Infinite Universe)

or
Lower Limit² =

¹ For quarterly engagements, the practitioner should use 1.645, the T factor for the required 90% confidence level.

² Lower Limit must be equal to or greater than 97% for lender or lender servicer to be considered an Exceptional Performer

**1. CONVERSION OF LOANS TO REPAYMENT
TABLE 1**

	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
A. Consolidated Loans		
1. Repayment Period Begin Date		
2. First Payment Due Date		
B. PLUS Loans		
1. Repayment Period Begin Date		
2. First Payment Due Date		
C. SLS Loans		
1. Repayment Period Begin Date		
2. First Payment Due Date		
D. Stafford Loans		
1. Repayment Period Begin Date		
2. First Payment Due Date		
TOTAL COMPLIANCE ACTIONS (SECTIONS 1)		

**2. COLLECTION OF DELINQUENT LOANS
TABLE 2**

(PRE-1999 REGULATIONS)	# OF LOANS	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
A. 1 - 10 Days Delinquent. Written Notices (Table 2A)			
B. 11-180 Days Delinquent 1. Telephone Efforts (Table 2B1) 2. Collection Letters (Table 2B2) 3. Receipt of Payment, Address, etc. (Table 2B3)			
C. 151Days or Greater (Final Demand Ltrs) (Table 2C)			
D. Skip Tracing (Table 2D)			
E. Loan Endorser (PLUS Loans Only) 1. Tel./Letters (Table 2E1) 2. Skip Tracing (Table 2E2)			
F. Preclaims Assistance (Table 2F)			
(1999 REGULATIONS)			
G. 1 - 15 Days Delinquent. Written Notices (Table 2G)			
H. 16-180 Days Delinquent 1. Telephone Efforts (Table 2H1) 2. Collection Letters (Table 2H2) 3. Receipt of Payment, Address, etc. (Table 2H3)			
I. 181-270 Days Delinquent (Diligent Effort) (Table 2I)			
J. 241 Days or Greater (Final Demand Ltrs) (Table 2J)			
K. Skip Tracing (Table 2K)			
L. Loan Endorser (PLUS Loans Only) 1. Tel./Letters (Table 2L1) 2. Skip Tracing (Table 2L2)			
M. Default Aversion (Table 2M)			
TOTAL ACTIONS (A THROUGH M)			

PRE-1999 REGULATIONS

1-10 Days Delinquent

Written Notices/Collection Letters

TABLE 2A

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1		
Loan #2		
Loan #3		
etc.		
Total	2	

¹ For each loan enter a "1" if the records document that the required written notice or collection letter was sent to the borrower (do not exceed "1" for each loan).

² Enter the number of loans in sample (where required written notices or collection letters should have been sent).

PRE-1999 REGULATIONS

11-180 Days Delinquent (11-240 days)

Telephone Efforts
TABLE 2B1

Sampled Loans	1 Effort Before 90 days		1 Effort After 90 days		Other Efforts		TOTAL	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1								
Loan #2								
Loan #3								
etc.								
Total	1		1		2			

Collection Letters
(TABLE 2B2)

Sampled Loans	At least 2 letters contain warning		Other Letters		TOTAL	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1						
Loan #2						
Loan #3						
etc.						
Total	2		2			

¹ 1 * (multiplied by) the number of sampled loans in this category.

² 2 * (multiplied by) the number of sampled loans in this category.

PRE-1999 REGULATIONS

If lender received loan payment, address correction, dishonored check, borrower's telephone number, or notification of expired forbearance or deferment, only the following is required:

TABLE 2B3

Sample Loans	Section I 11-90 (11-120) ⁴ days delinquent						Section II 91-120 (121-180) ⁴ days delinquent				ALL		Total	
	2 Diligent Telephone Efforts		If both telephone efforts are unsuccessful two forceful letter efforts are required		If only one telephone effort is successful, one forceful letter effort is required		1 Diligent Telephone Effort		If telephone effort is unsuccessful, one forceful letter effort is required		Other required activity to ensure no gap in collection activity > than 45 days			
	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)
1	1		1		1		1		1		1			
2	1		1		1		1		1		1			
3	1		1		1		1		1		1			
etc.														
Total	2		2		1		1		1		3			

- 1 = 1 *(multiplied by) the number of sampled loans in this category.
- 2 = 2 *(multiplied by) the number of sampled loans in this category.
- 3 = Total number of collection activities required to ensure that there are no gaps greater than 45 days.
- 4 = If payments made less frequently than monthly.

PRE-1999 REGULATIONS

Final Demand Letter 151 Days or Greater

TABLE 2C

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1		
Loan #2		
Loan #3		
etc.		
Total		

**Skip Tracing Procedures
TABLE 2D**

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ²
Loan #1		
Loan #2		
Loan #3		
etc.		
Total	3	

¹ For each loan enter the number of Final Demand Letters that the records document were sent to the borrower (do not exceed 1 for each loan).

² For each loan, enter a 1 in Column B if both skip tracing requirements included in Step 2 were met. Otherwise, enter a 0.

³ Enter the number of loans where skip tracing procedures should have been performed.

PRE-1999 REGULATIONS 1-180 Days Delinquent

Loan Endorser Due Diligence Requirements

TABLE 2E1

Sampled Loans	1 Tel. Effort		1 Letter with warning		1 addtl ltr		Final Demand Ltr		Grand Total	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1										
Loan #2										
Loan #3										
etc.										
Total			1		1		1			

Skip Tracing Procedures

TABLE 2E2

Sampled Loans where Final Demand Letter not sent	Upon lender's receipt of info. that endorser's address or phone # unknown, skip tracing includes at least 1 directory assistance inquiry	
	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
Loan #1		
Loan #2		
Loan #3		
etc.		
Total	1	

¹ 1*(multiplied by) the number of sampled loans in this category

PRE-1999 REGULATIONS

Preclaims Assistance

TABLE 2F

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1		
Loan #2		
Loan #3		
etc.		
Total	2	

¹ For each loan enter a "1" if the required preclaims assistance was documented (do not exceed "1" for each loan).

² Enter the number of loans where preclaims assistance should have been performed.

1999 REGULATIONS

1-15 Days Delinquent

**Collection Letters
TABLE 2G**

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1		
Loan #2		
Loan #3		
etc.		
Total	2	

¹ For each loan enter a "1" if the records document that the required written notice or collection letter was sent to the borrower (do not exceed "1" for each loan).

² Enter the number of loans where required written notices or collection letters should have been sent.

1999 REGULATIONS

16-180 Days Delinquent (16-240 days ³)

**Telephone Efforts
TABLE 2H1**

Sampled Loans	1 Effort Before 90 days		1 Effort After 90 days		Other Efforts		TOTAL	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1								
Loan #2								
Loan #3								
etc.								
Total	1		1		2			

**Collection Letters
TABLE 2H2**

Sampled Loans	At least 2 letters contain warning		Other Letters		TOTAL	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1						
Loan #2						
Loan #3						
etc.						
Total	2		2			

¹ 1 * (multiplied by) the number of sampled loans in this category.

² 2 * (multiplied by) the number of sampled loans in this category.

³ If payments are made less frequently than monthly.

If lender received loan payment, address correction, dishonored check, borrower's telephone number, or notification of expired forbearance or deferment, only the following is required:

TABLE 2H3

Sample Loans	Section I 16-90 (16-120) ⁴ days delinquent						Section II 91-120 (121-180) ⁴ days delinquent				ALL		Total	
	2 Diligent Telephone Efforts		If both telephone efforts are unsuccessful two forceful letter efforts are required		If only one telephone effort is successful, one forceful letter effort is required		1 Diligent Telephone Effort		If telephone effort is unsuccessful, one forceful letter effort is required		Other required activity to ensure no gap in collection activity > than 45 days			
	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)	Col A (Req)	Col B (Doc)
1														
2														
3														
etc.														
Total	2		2		1		1		1		3			

- 1 = 1 *(multiplied by) the number of sampled loans in this category.
- 2 = 2 *(multiplied by) the number of sampled loans in this category.
- 3 = Total number of collection activities required to ensure that there are no gaps greater than 45 days.
- 4 = If payments made less frequently than monthly.

**181- 270 Days
Diligent Effort
TABLE 2I**

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)¹
Loan #1		
Loan #2		
Loan #3		
etc.		
Total		

**Final Demand Letter
241 Days or Greater**

TABLE 2J

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)²
Loan #1		
Loan #2		
Loan #3		
etc.		
Total		

¹ For each loan enter the number of Final Demand Letters that the records document were sent to the borrower (do not exceed 1 for each loan).

² For each loan enter the number of Final Demand Letters that the records document were sent to the borrower (do not 1 for each loan).

1999 Regulations

Skip Tracing Procedures

TABLE 2K

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ³
Loan #1		
Loan #2		
Loan #3		
etc.		
Total	4	

³ For each loan, enter a 1 in Column B if both skip tracing requirements included in Step 2 were met. Otherwise, enter a 0.

⁴ Enter the number of loans where skip tracing procedures should have been performed.

1999 Regulations

1-270 Days Delinquent

Loan Endorser Due Diligence Requirements

TABLE 2L1

Sampled Loans	1 Tel. Effort		1 Letter with warning		1 addtl ltr		Final Demand Ltr		Grand Total	
	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)	COL A (REQ)	COL B (DOC)
Loan #1										
Loan #2										
Loan #3										
etc.										
Total	1		1		1		1			

Skip Tracing Procedures

TABLE 2L2

Sampled Loans where Final Demand Letter not sent	Upon lender's receipt of info. that endorser's address or phone # unknown, skip tracing includes at least 1 directory assistance inquiry	
	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
Loan #1		
Loan #2		
Loan #3		
etc.		
Total	1	

¹ 1 * (multiplied by) the number of loans sampled in this category.

1999 Regulations

Default Aversion

TABLE 2M

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED) ¹
Loan #1		
Loan #2		
Loan #3		
etc.		
Total	²	

¹ For each loan enter a "1" if the required preclaims assistance was documented (do not exceed "1" for each loan).

² Enter the number of loans where preclaims assistance should have been performed.

3. TIMELY CLAIM FILINGS WITH GUARANTY AGENCY
TABLE 3

	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)
A. Death, Disability, Bankruptcy Closed School & False Certif.		
B. Default Claims		
Total		

**Death, Disability, Bankruptcy, Closed School
False Certification**

TABLE 3A

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)¹
Loan #1		
etc.		
Total	²	

Default Claims
TABLE 3B

Sampled Loans	COLUMN A (REQUIRED)	COLUMN B (DOCUMENTED)¹
Loan #1		
Loan #2		
etc.		
Total		

¹ Enter a "1" for each loan in which the timely claim filing was documented.

² Enter the number of loans included in this category.