

## Department of Health & Human Services

Public Health Service

Health Resources and Services Administration  
Rockville, MD 20857

Bureau of Health Professions

February 29, 2000

**To:**

**Lenders/Holders/Service Providers Participating in the Health Education Assistance Loan (HEAL) Program**

**Subject:**

**Exceptional Performance Standard Audit Guidelines and Implementation  
HEAL Lender Policy Memorandum L-2000-4**

The HEAL Program has completed the Exceptional Performance (EP) Standard Audit Guidelines for lenders/holders/service providers participating in the HEAL Program. These guidelines were developed with the assistance of a major accounting firm and input from the two primary service providers of HEAL loans. By working with these parties, we believe we have achieved a fair and reasonable guideline.

In accordance with the EP Guide and Timeline of Events (Appendix B) lenders/holders/service providers that wish to apply for designation as an exceptional performer are required to complete their initial audits for the period April 1, 1999 through March 31, 2000 and submit them to the Secretary (HEAL Program) by June 19, 2000 for determination. The HEAL Program will review the audits submitted and notify the lender/holder/service provider of its designation by June 29, 2000. The designation will become effective on July 1, 2000 for the quarter ending September 30, 2000. As stated in previous Lender Policy Memorandum L- 1999-6, all lenders/holders/service providers determined to be exceptional performers will be reimbursed 2 percent plus interest by the Secretary on all default claims approved and paid during the period May 1, 1999 through June 30, 2000. All lenders/holders/service providers that are designated exceptional performers will receive 100 percent payment on approved default claims received between July 1 and September 30, 2000. All other lenders/holders/service providers will receive 98 percent payment on approved default claims.

**Please note that EP audits are only required of entities that service HEAL loans. Also, if a service provider is servicing HEAL loans for more than one HEAL lender or holder the service provider need only perform 'one' audit on its entire portfolio. Lenders**

**and holders that are not servicers will be paid either 98 percent or 100 percent on their HEAL default claims depending on the EP designation of their HEAL loan servicer. Lenders/holders/servicers not applying to be an exceptional performer must continue to comply with the Public Health Service Act statute that requires biennial audits.**

Questions regarding this memorandum may be directed to Ms. Terri Ehrenfeld or Ms. Denise Sorrell or the HEAL Program at (301) 443-1540.

Stephen J. Boehlert  
Associate Division Director for HEAL  
Division of Student Assistance

Attachment:  
HEAL Exceptional Performance  
Standard Audit Guideline

**HEALTH EDUCATION ASSISTANCE LOAN (HEAL)  
EXCEPTIONAL PERFORMANCE STANDARD  
AUDIT GUIDE**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
HEALTH RESOURCES AND SERVICES ADMINISTRATION  
BUREAU OF HEALTH PROFESSIONS  
DIVISION OF STUDENT ASSISTANCE**

**FEBRUARY 2000**

**TABLE OF CONTENTS**  
**SECTION I**

**PLANNING AND OTHER CONSIDERATIONS**

AUTHORIZATION .....	1
ATTESTATION REQUIREMENTS AND STANDARDS.....	1
USE OF THIS GUIDE .....	2
ENGAGEMENT PERIOD .....	2
Initial Designation .....	2
Quarterly Compliance Reviews.....	3
Annual Reviews .....	4
Secretary's Determination .....	4
Timeline of Events.....	4
PRACTITIONER QUALIFICATIONS .....	5
ENGAGEMENT LETTER.....	5
PLANNING CONSIDERATIONS .....	6
Purpose and Objective .....	6
Agreed-Upon Procedures Engagement...	6
Management Assertions and Scope .....	7
REPORTING CONSIDERATIONS .....	7
Reporting Noncompliance.....	7
Matters Requiring Immediate Attention.....	8
Report Submission .....	8
QUALITY CONTROL REVIEWS .....	9
Deficient Work .....	9
Freedom of Information Act Considerations .....	9

**SECTION II**

**AGREED-UPON PROCEDURES ENGAGEMENT**

INTRODUCTION.....	10
Special Loan Situations and Waivers .....	10
MANAGEMENT ASSERTION, STATISTICAL SAMPLE	
METHODOLOGY AND AGREED-UPON PROCEDURES .....	11
Scope of Management's Assertion .....	11
Statistical Sample Methodology .....	11
Agreed-Upon Procedures .....	13
1. Transition to Repayment.....	13
2. Interest Capitalization .....	15
3. Payment Processing .....	15

4. Deferment/Forbearance Processing ..	16
5. Delinquent Loan Processing . .	16
CALCULATION OF PERFORMANCE COMPLIANCE PERCENTAGE. ....	18

**SECTION III**

**PROCEDURES FOR INDEPENDENT PRACTITIONER**

REVIEW OF APPLICABLE LEGISLATION.....	19
INFORMATION AND PROCEDURES.....	19
TESTING BY INDEPENDENT PRACTITIONER .....	19

**SECTION IV**

**REPORTING**

SERVICER SUBMISSION PACKAGE.....	21
Initial Application for EP Designation .....	21
Subsequent Quarterly Compliance Engagements .....	22
Subsequent Annual Compliance Engagements .....	22
PRACTITIONER'S REPORTING PACKAGE .....	23
Management Assertion .....	23
Initial Designation Review .....	24
Subsequent Quarterly Compliance Engagements .....	25
Subsequent Annual Compliance Engagements .....	25

APPENDIX A	
DIVISION OF STUDENT ASSISTANCE CONTACT POINT-FOR-GUIDE .....	A-I

APPENDIX B	
TIMELINE OF EVENTS.....	B-1
TIMELINE NOTES.....	B-2
TESTING AND SUBMISSION REQUIREMENTS TAB.....	B-6

APPENDIX C	
ILLUSTRATIVE REPORT (PRACTITIONER PERFORMANCE) .....	C-1
ILLUSTRATIVE REPORT (PRACTITIONER AND INTERNAL AUDIT /	
OTHER PERSONNEL PERFORMANCE).....	C-3
ILLUSTRATIVE REPORT REPRESENTATION	
LETTER TO PRACTITIONER .....	C-5
ILLUSTRATIVE REPORT SCHEDULE OF FINDINGS .....	C-6
ILLUSTRATIVE PRACTITIONER INFORMATION SHEET .....	C-7

APPENDIX D  
STATISTICAL SAMPLE SIZES FOR COMPLIANCE TESTING ..... D-1

APPENDIX E  
TABLE 1 - TRANSITION TO REPAYMENT TESTING ..... E-1  
TABLE 2 - INTEREST CAPITALIZATION TESTING ..... E-2  
TABLE 3 - PAYMENT PROCESSING TESTING ..... E-3  
TABLE 4 - DEFERMENT/FORBEARANCE TESTING ..... E-4  
TABLE 5 - DELINQUENT LOAN TESTING ..... E-S

APPENDIX F  
EXAMPLE CALCULATION - COMPLIANCE PERFORMANCE % ..... F-1  
SUMMARY TABLE/COMPUT ATION OF COMPLIANCE PERFORMANCE  
PERCENTAGE ..... F-2

## SECTION I

### PLANNING AND OTHER CONSIDERATIONS

#### AUTHORIZATION

The Health Professions Education Partnership Act of 1998 (P.L. 105-392) was enacted on November 13, 1998. Included in this legislation is a provision for the enactment of an Exceptional Performance Standard for lenders, holders, and servicers participating in the HEAL Program. May 1, 1999 was the statutory date for implementation.

The exceptional performance standard requires the Secretary to pay 98 percent on approved default claims (excluding bankruptcy, death, and disability claims) for those lenders/holders/servicers (hereby referred to as servicers) that are not designated for exceptional performance and 100 percent on approved default claims for those servicers that are designated for exceptional performance (Section 707(a) of the PHS Act). Further, the standard requires an annual financial and compliance review and quarterly reviews to be conducted by servicers to determine and maintain their performance status. A compliance performance rating of 97 percent or higher is required to acquire and maintain the Exceptional Performance (EP) designation.

#### ATTESTATION REQUIREMENTS AND STANDARDS

To receive a designation for EP, a servicer must submit specific items to the Secretary including a compliance review of its loan portfolio conducted by a qualified independent organization (or, with respect to the procedures set forth in Section II, by the servicer's internal auditor or other personnel if the practitioner is to perform the procedures set forth in Section III). The audit organization 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. To satisfy the compliance review requirement, this guide requires an agreed-upon procedures level engagement. This engagement requires the practitioner to perform certain procedures and report his/her results. Management's assertion will be that it (the 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:

- transition to repayment,
- interest capitalization,
- payment processing
- deferment/forbearance processing, and
- delinquent loan processing

The applicable standards contained in *Government Auditing Standards*, the standards contained in *Statement on Standards for Attestation Engagements (SSAE) No.3, Compliance Attestation*, and *No. 4 Agreed-Upon Procedures Engagements* issued by the American Institute of Certified Public Accountants (AICPA) apply.

## USE OF THIS GUIDE

This guide is to be used by the servicer and its independent practitioner to perform agreed-upon procedures relative to management's assertion about its compliance performance percentage with respect to; timely and proper transition to repayment, interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing. 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, practitioner qualifications, engagement letters, planning and reporting considerations, and quality control reviews.

Section II provides guidance on the requirements of "Agreed-Upon Procedures" engagements including special loan situations and waiver, statistical sampling methodology, required management assertions and agreed upon procedures to be performed.

Section III documents additional required procedures to be performed by the independent practitioner in instances where the procedures outlined in Section II were performed by the internal auditor or other personnel.

Section IV contains 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 applicable management assertions contained in this guide must be performed. Technical assistance related to these engagements is available from the Department of Health and Human Services, Division of Student Assistance, (See Appendix A).

## ENGAGEMENT PERIOD

### **Initial Designation**

The initial designation will be awarded based on an annual review covering servicing activities performed during the most recently completed four calendar quarters. The annual review need not run January to December~ but should be based on calendar quarters. The audit report is due to the Department of Health and Human Services

(HHS) no later than 80 calendar days from the end of the testing period. HHS will not accept audit reports received after the SO-day deadline. *Servicers must perform and satisfactorily complete the requirements for the Exceptional Performance Standard for the period of 4/1/1999 - 3/31/2000 to be eligible for tile retroactive 2% reimbursement and associated accrued interest. A servicer may choose to postpone application for the designation until a later date; however, the retroactive reimbursement will be forfeited.*

The initial designation review consists of compliance testing of timely and proper transition to repayment, interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing over a twelve month period. This review should be performed on individual samples covering the entire twelve-month period for each of the five required management assertions. Samples for individual quarters are not required.

Submission of the servicer's annual financial audit is also required as part of the initial application for the EP designation (See Report Submission below and Section IV Reporting).

Compliance testing for the initial designation review may be performed by an independent practitioner or by the servicer's internal auditors or other personnel if the procedures set forth in Section III are performed by the practitioner.

HHS will officially notify applicants of their status within 10 days of receipt of the audit report. A servicer not meeting the standard for designation as an exceptional performer may reapply the following quarter. Reapplication for the initial designation requires satisfactory and timely completion of another 12-month review. This review should cover the 12-month period immediately preceding the quarter during which the servicer can reapply.

#### Quarterly Compliance Reviews

To maintain its status as an exceptional performer, the servicer must perform and pass quarterly reviews to retain the designation. As with the initial designation review, procedures may be performed by an independent practitioner or by internal audit or other personnel if the procedures set forth in Section III are performed by the practitioner during the subsequent annual review. Whether performed by the practitioner, internal audit, or other personnel, all of the agreed-upon procedures related to applicable management assertions contained in this guide must be performed for each quarterly compliance review.

Quarterly reviews are to be performed based on calendar quarters. For all quarterly engagements, there should be no lapses of coverage. The first quarterly engagement is to cover the 3-month period starting the day after the end of the initial 12-month period for which the servicer received its Exceptional Performer designation.

Quarterly audit reports are due to HHS no later than 80 calendar days from the end of the testing period. HHS will not accept audit reports received after the SO-day deadline. HHS will officially notify applicants of their status within 10 days of receipt of the audit report. Failure to comply with a reporting deadline will result in loss of the exceptional performance designation for the subsequent quarter. Failure to meet the 97% compliance rating will also result in loss of the designation for the subsequent quarter. In each case, servicers may reapply the following quarter. Reapplication for the EP designation lost due to an unsatisfactory or untimely quarterly review requires the satisfactory and timely completion of a subsequent quarterly review. Should a servicer lose the exceptional performance designation, claim payments will be reduced to a maximum of 98% for claims submitted during the subsequent quarters, until a 97% compliance rating has been achieved and reviewed by HHS.

#### Annual Reviews

On an annual basis, the servicer is required to provide to the Secretary a copy of the annual financial audit. In addition, in situations where internal auditors or other personnel have performed the quarterly compliance testing, described in Section II, the independent practitioner is required to perform the procedures set forth in Section III. This includes reperformance of 5 percent of accounts tested for each management assertion for the previous four calendar quarters. Noncompliance with requirements and methodology outlined in the EP Guide will result in loss of the Exceptional Performance designation. Loss of the designation based on the annual review will require satisfactory and timely completion of a subsequent annual review. This may require reperformance of one or more quarterly reviews to ensure compliance with EP Guide requirements. Claim payments will be reduced to a maximum of 98% for claims submitted during the subsequent quarters, until independent verification of compliance with EP requirements is received and reviewed by HHS. The servicer may reapply the following quarter.

#### Secretary's Determinations

As stated in the legislation, the Secretary shall make the determination to designate an exceptional performer based upon the audit reports submitted and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government.

#### Timeline of Events

A timeline illustrating initial review requirements and subsequent quarterly and annual timing and reporting requirements, along with a table summarizing testing and submission requirements can be found at Appendix B.

## PRACTITIONER QUALIFICATIONS

A practitioner must meet the qualification and independence standards contained in *Government Auditing Standards*, including the requirements relating to continuing professional education. The agreed-upon procedures to be enumerated or referred to in the practitioner's report must be performed entirely by the practitioner. However, as set forth in SSAE No.4, paragraphs 24 and 25, internal auditors or other personnel may prepare schedules and accumulate data or provide other information for the practitioners use in performing agreed upon procedures. Also, a practitioner may agree to perform procedures on information documented in the working papers of internal auditors. For example, the practitioner may agree to:

- Repeat all or some of the procedures (5 percent reperformance is required for the purposes of this Guide).
- Determine whether the internal auditor's working papers contain documentation of procedures performed and whether findings documented in the working papers are presented in a report by the internal auditors.

However, it is inappropriate for the practitioner to:

- Agree to merely read the internal auditor's report solely to repeat or describe their findings.
- Take responsibility for all or a portion of any procedures performed by internal auditors by reporting those finding's as the practitioner's own.
- Report in any manner that implies shared responsibility for the procedures with the internal auditors.

The audit organization is required to meet the quality control standards of the *Government Auditing Standards*. The 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 servicer is located in a state outside the home state of the practitioner, and the practitioner performs substantial fieldwork in the servicer'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 should prepare a letter of engagement to communicate to the servicer the nature of the agreed-upon procedures engagement. The practitioner must include:

- A statement that the engagement is to be performed in accordance with *Government Auditing Standards*, AICPA Statement 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 Department of Health and Human Services intends to use the practitioner's report in conjunction with servicer management's assertions to determine whether the servicer maintained the 97 percent compliance performance percentage.
- A provision that the practitioner is required to provide HHS and their representatives access to working papers (including making photocopies, as necessary) upon request.

## 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 on his or her findings based on the procedures performed. The following conditions must exist for an agreed upon procedures engagement (Ref. SSAE No.3, paragraphs 9 and 10, and SSAE No.4 paragraph 10):

- a. Management must accept responsibility for the entity's compliance with respect to timely and proper transition to repayment, interest capitalization, payment processing, deferment/ forbearance processing, and delinquent loan processing.
- b. Management evaluates the entity's compliance with respect to timely and proper transition to repayment, interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing.
- c. Management makes an assertion about the entity's compliance with respect to timely and proper transition to repayment, interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing. The assertion may be in a representation letter, 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 AICPA Attestation Standards [See Servicer Assertion information in Section III). Management's assertions (which can be in the form of a representation letter to the practitioner) are the basis for the practitioner's testing, and are therefore an integral part of the engagement. An example of the type of management assertion representation letter that can be obtained is included in Appendix C. A servicer receives the exceptional performance designation based on loans it actually services itself and performance of servicing activities required during the audit period. A servicer may not receive the designation for a portion of the portfolio serviced, portions of the loan portfolio serviced are not to be excluded for purposes of the assertions by management relating to the satisfaction of the required 97 percent compliance percentage. The entire portfolio of loans serviced should be considered for review in attesting to management's assertions about the applicable compliance rate for possible EP designation.

## **REPORTING CONSIDERATIONS**

### **Reporting Noncompliance**

Management's assertions and the practitioner's report issued pursuant to this guide are the primary tools used by HHS in determining whether to designate a servicer for exceptional performance status.

In this agreed-upon procedures-level engagement, all instances of noncompliance identified by the practitioner during his/her engagement must be reported to the servicer by completing a Schedule of Findings (See Appendix C). To be of value, reported findings must contain adequate information to give findings perspective and allow managers to make appropriate decisions. In reporting instances of noncompliance, the practitioner should clearly describe the noncompliance found including the loan or loans affected. The practitioner is not required to determine the cause of noncompliance identified during the engagement nor is the practitioner required to evaluate the entity's internal control structure. The 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 5 years.

### Matters Requiring Immediate Attention

If the practitioner becomes aware of possible illegal acts or indications of such acts which could result in criminal prosecution, the practitioner should use discretion to avoid any actions that would compromise the protection of an individual's rights and the integrity of any official inquiries. For supplemental guidance, see Chapters 4 and 5 of *Government Auditing Standards*. In addition, practitioners may wish to consult SAS No. 82, *Consideration of Fraud in a Financial Statement Audit*.

This guide requires the practitioner to promptly prepare a separate written report concerning such acts or indications of such acts and include all information described in Appendix C regarding reporting of findings. This report should be submitted to the HHS Division of Student Assistance within 30 days after the date of discovery of the act. 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 additional work. The practitioner shall submit this report to:

Associate Division Director  
Division of Student Assistance  
HEAL Program  
5600 Fishers Lane  
Room 8-37  
Rockville, MD 20857

As practitioners are required to report illegal acts or indications of such directly to the HHS Division of Student Assistance, it is suggested that practitioners include a statement in the engagement letter that describes the practitioner's responsibility to communicate and report on such acts.

### **Report Submission**

The practitioner's reports should be submitted to the servicer's governing body (for example, Board of Directors) and/or President, as appropriate. The report should clearly indicate the period the agreed-upon procedures engagement covered. The servicer should submit a copy of the practitioner's report to HHS with its application for Exceptional Performance. In addition the servicer is required to submit its annual financial audit when applying for Exceptional Performance designation (See Section III Reporting). (*NOTE: Servicers that are State or Local Government Agencies or Non Profit Organizations can satisfy their annual financial and compliance audit requirement by having a Single Audit performed*). The practitioner's reporting package is to be held by the servicer for a period of five years, unless specifically requested by HHS. Further guidance on reporting requirements is provided in Section III of this guide.

## QUALITY CONTROL REVIEWS

HHS has implemented procedures for reviewing servicers' and practitioners' work. As part of this evaluation, working papers shall be made available upon request to the Associate Division Director or other representatives of the Secretary. To facilitate these requests, the Servicer's and Practitioner's Reporting Package should include an information sheet identifying the name, address, and telephone number of a servicer contact and the partner on the engagement. (See Appendix C)

### **Deficient Work**

Whenever an evaluation of a report or working papers discloses inadequacies, the servicer or practitioner may be asked to take corrective action. If HHS 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. HHS may also initiate action to debar the practitioner from further participation in Federal programs.

### **Freedom of Information Act Considerations**

Servicers or practitioners who deem any of the working paper information to be "confidential commercial information" should take appropriate steps to so designate that information. "Confidential commercial information" means records that may contain material exempt from release under Exemption 4 of the FOIA (pertaining to trade secrets and commercial or financial information that is privileged or confidential) because disclosure could reasonably be expected to cause substantial competitive harm to the servicer's business. These records should be sent with an explanation of why the servicer or auditor views disclosure as reasonably expected to cause substantial competitive harm to the servicer's business. In the event of a request for disclosure under FOIA, HHS will make an independent determination of the applicability of Exemption 4, or any other exemption of the FOIA.

## SECTION II

### AGREED-UPON PROCEDURES ENGAGEMENT

#### INTRODUCTION

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

The agreed-upon procedures set forth in this section are to be followed by the servicer's independent practitioner or by the servicer's internal auditor or other personnel if the practitioner performs the procedures described in Section III.

To perform the engagement, the following documentation should be read and/or available:

- a. 42 CFR Part 60 (most recent edition)
- b. Policy Memorandums

Note: These items may be obtained on CD-ROM from the Division of Student Assistance upon request.

#### **Special Loan Situations and Waivers**

The selected samples may contain loans that are subject to certain waivers. In certain instances the Secretary grants waivers of specific servicing requirements due to extenuating circumstances (e.g., natural disasters, unforeseeable systems difficulties, etc.). These waivers deem the servicer of the covered loans harmless for failing to comply with prescribed servicing requirements and often impose conditions or limitations for the waiver to apply. These loans should not be excluded from the sample. However, the servicer must report (e.g., in a footnote disclosure) how many sampled loans were subject to that waiver. In addition, the servicer'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 calculate the servicer's compliance percentage, the loans covered by the waiver should be excluded from both the numerator and the denominator.

In order to obtain a waiver, the servicer should contact the Division of Student Assistance upon identification of the circumstance resulting in noncompliance. The servicer will be required to provide full disclosure of the problem, identify the population affected, and implement a plan for corrective action in order to obtain the waiver.

## SCOPE OF MANAGEMENT ASSERTION, STATISTICAL SAMPLE METHODOLOGY, AND AGREED-UPON PROCEDURES

This section provides the required servicer management assertions, sample selection methodology, and the agreed-upon procedures to be performed.

### **Scope of Management's Assertion**

Servicer organizations desiring "Exceptional Performer" status are required to apply for such designation for the loans they service. The assertion made by servicer management must cover the servicing activity (including transition to repayment, interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing) for all HEAL loans it services. An agreed-upon procedures level engagement should be performed on the servicer management's assertion applicable to all HEAL loan portfolios it serviced during the period for which the assertions are being made.

### **Statistical Sample Methodology**

The exceptional performer legislation specifies that the compliance performance percentage is to be calculated using statistical sampling and evaluation techniques. For this engagement, HHS requires a high level of assurance as to the testing of management's assertion that it maintained a 97 percent or higher compliance performance percentage with respect to timely and proper transition to repayment, interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing.

Sampling for attributes is to be used in this engagement. The test procedures set forth for each of the five compliance areas relate to substantive tests of details rather than tests of controls. For this engagement HHS is requiring the use of statistical sampling techniques, including a random sample of loans from the universe of all HEAL loans serviced during the period covered by the engagement.

### ***Population/Sample Size***

In the interest of simplifying the sample selection process, HHS recommends basing sample sizes on a population of loans fitting specific criteria for each of the five compliance areas discussed in this guide. In a large population, the size of the sample is virtually independent of the size of the universe, but rather depends on the confidence required 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.

A statistical random sample of loans from each defined population should be selected using the following criteria:

- A minimum confidence level of 85%. Servicers have the option of raising this confidence level at their discretion, but in no case should the confidence level be set lower than the minimum. The confidence level determines the level of certainty that the selected sample is representative of the population. An 85% confidence level indicates an accepted 15% risk that the result of the sample might not be representative of the population as a whole.
- A tolerable error rate of 3%, as required by the 97% compliance performance rating set by the exceptional performance legislation.
- An expected error rate of 0% or above, as estimated by the servicer. The expected error rate will most greatly impact sample size and represents the expected population deviation rate.

Based on a confidence level of 85% with an expected error rate of 0% and a tolerable error rate of 3%, sample sizes will be approximately 63 loans.

Raising the expected error rate and increasing the sample size will allow servicers a wider margin for error. For example, based on a confidence level of 85% with an expected error rate of .5% and a tolerable error rate of 3%, sample sizes will be approximately 111 loans.

Appendix D is included in the Guide to assist in selecting the sample for this engagement. This table should be referred to in determining a sample size (loans) for the initial annual engagement and subsequent quarterly engagements. The table includes elements needed to select such a sample; the "confidence level" (85%), the tolerable error rate (3% for this engagement), and the expected error rate. When using this table, read down the "Population" column to find the appropriate population range. Next, locate the column corresponding to the "Expected Error Rate". The appropriate sample size is shown where the two factors meet. As an example, a servicer with a population of 2,500-4,999 loans, who expects an error rate of 0.25%, would select a sample of 111 loans. (Note: Appendix D was prepared using statistical sampling software. For sample sizes based on exact population figures, or samples based on higher confidence levels, the servicer may consider use of such software.)

### *Errors*

For the purposes of the Exceptional Performance engagement, an error is defined as an activity that is required during the review period, but was conducted late, incorrectly, or not at all by the servicer under review. The servicer is only liable for activity required while that servicer holds the loan and during the engagement period.

### *Evaluation of Results*

After completing all required test procedures and tables (as set forth in this Guide) for the loans sampled, the estimated compliance performance percentage for the sampled activities is to be computed (using the formula and tables in Appendix F). For the servicer to be designated as an exceptional performer, the compliance performance percentage must not be less than the required 97% performance level.

### *General Information*

When performing testing, the information provided in the following assertions should be used in conjunction with the tables referenced in Appendix E and most recent regulations and policy memorandum.

HHS recommends automation of population identification, sample selection, and downloading of required information (as illustrated in the referenced tables) to the greatest extent possible.

Documentation required for testing need not be original documentation, but may consist of a photocopy of an original, microfilm, or imaged copy. The practitioner need not maintain copies of all documentation reviewed in the working papers; however, should HHS request to review the work performed, such documentation will be required.

### **Agreed-Upon Procedures**

#### 1. TRANSITION TO REPAYMENT

##### Management Assertion

Repayment commenced timely and accurately as defined by regulation section 60.11:

##### **• Commencement of Repayment:**

Repayment begin date is the first day of the 10<sup>th</sup> month borrower ceases to be a full time student at after the month the a HEAL school.

If the borrower becomes an intern or resident in an accredited program within 9 full months after leaving school, the repayment begin date is the first day of the 10<sup>th</sup> month after the month the borrower ceases to be an intern or resident. For a borrower whose first HEAL loan is disbursed after October 22, 1985, this postponement of the beginning of the repayment period for participation in an internship or residency program is limited to 4 years.

For any HEAL loan disbursed on or after October 22, 1985, if the borrower

becomes an intern or resident in an accredited program within 9 full months of leaving school and subsequently enters into a fellowship training program or educational activity and within 12 months after the completion of the accredited internship or residency program or prior to the completion of such program, the borrower's repayment period begins on the first day of the 10th month after the month he or she ceases to be a participant in the fellowship training program or educational activity. Postponement of the commencement of the repayment period for either activity is limited to 2 years.

• **Length of Repayment Period:**

The borrower is allowed at least 10 years, but not more than 25 years to repay a loan calculated from the beginning of the repayment period. Borrowers must fully repay HEAL loans within 33 years from the date the loan is made. For borrowers with any HEAL loan disbursed prior to October 22, 1985, periods of deferment are not included when calculating the 10 to 25 or 33-year limitations. For borrowers receiving his or her first HEAL loan on or after October 22, 1985, periods of deferment are included when calculating the 33-year limitation, but are not included when calculating the 10 to 25 year limitation.

• **Minimum Annual Payment**

During each year of repayment, a borrower's loan payments must, at a minimum, total the interest accrued during the year on all loans, unless the borrower agrees through written agreement to make payments in a lesser amount.

• **Repayment Schedule Agreement**

Borrowers are made aware of repayment options within 30 - 60 days of the commencement of repayment. Terms are set according to the borrower's election. Borrowers who do not make a repayment option selection are placed on a level repayment plan.

Population

Loans entering repayment status during the review period including loans entering initial repayment period as well as those coming out of deferment/forbearance.

Required Procedures

Using the sampling parameters discussed above, **Statistical Sample Methodology**, and the population defined for this assertion, select a statistical random sample of HEAL loans entering repayment during the review period. Perform procedures described at Appendix E, Table 1.

## **2. INTEREST CAPITALIZATION**

### Management Assertion

Interest is capitalized timely and accurately in accordance with regulation section 60.13 and the terms outlined on the promissory note and/or disclosure:

- Interest accrues from the date the loan is disbursed until the loan is paid in full.
- Unpaid accrued interest shall be compounded not more than semi-annually on HEAL loans for which the promissory note was signed before October 13, 1992 and not more than annually for promissory notes signed on or after this date.
- Servicers may postpone the compounding of interest before the beginning of the repayment period or during periods of deferment or forbearance.

### Population

All loans for which interest capitalization occurred during the review period.

### Required Procedures

Using the sampling parameters discussed above, Statistical Sample Methodology, and the population defined for this assertion, select a statistical random sample of HEAL loans for which interest was capitalized during the review period and perform procedures described at Appendix E, Table 2.

## **3. PAYMENT PROCESSING**

### Management Assertion

Billings are prepared accurately and in accordance with repayment terms disclosed to the borrower. Borrower payments are posted within 5 business days of receipt, with the correct effective date, and applied first to outstanding late fees, then to interest, and finally to principal.

### Population

All borrower payment transactions posted during the review period.

### Required Procedures

Using the sampling parameters discussed above, **Statistical Sample Methodology**, and the population defined for this assertion, select a statistical random sample of HEAL loan payments posted during the review period and perform procedures described at Appendix E, Table 3.

## **4. DEFERMENT/FORBEARANCE PROCESSING**

### Management Assertion

Deferments and forbearances granted during the review period were processed accurately, within 5 business days of receipt and in accordance with regulation section 60.12:

- Deferments and forbearances are granted to eligible borrowers only;
- Deferment/ forbearance does not exceed maximum allowable time limits.

### Population

All loans for which a deferment/ forbearance was granted during the review period.

### Required Procedures

Using the sampling parameters discussed above, **Statistical Sample Methodology**, and the population defined for this assertion, select a statistical random sample of HEAL loans entering deferment or forbearance status during the review period and perform procedures described at Appendix E, Table 4.

## **5. DELINQUENT LOAN PROCESSING**

### Management Assertion

For all delinquent loans during the review period, due diligence was performed in accordance with regulation section 60.35:

- First notice to be sent within 15 days of due date;
- 2nd, 3rd and 4th notices to be sent at regular intervals during the 120 day delinquent period;
- Last contact must include phone contact (2 attempts/1 contact);
- Final demand sent after 120 days in all instances, and at least 30 days prior to default claim filing if the servicer does not sue the borrower;
- Credit Bureau reporting required between 60 - 90 days delinquent
- PCA at 90 days delinquent;
- Claim was filed or litigation initiated according to claim type, original loan amount and current principal balance.

#### Population

All loans over 15 days delinquent at any time during the review period.

#### Required Procedures

Using the sampling parameters discussed above, **Statistical Sample Methodology**, and the population defined for this assertion, select a statistical random sample of HEAL loans delinquent greater than 15 days at any time during the review period and perform procedures described at Appendix E, Table 5.

## CALCULATION OF PERFORMANCE COMPLIANCE PERCENTAGE

Using the "loans sampled" and "loans without errors" totals from the summary table in Appendix F, statistically calculate the lower limit of the servicer's compliance performance percentage for timely and proper transition to repayment interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing, as follows:

The total number of loans tested (across all assertions) represents the *sample size* for purposes of evaluating the statistical sample results. The total number of loans tested without error (across all assertions) divided by the sample size is the *proportion of occurrence of a characteristic, or P*. Calculations are to be brought out to no less than six significant digits.

Step 1: To compute *p*, divide the total number of loans tested without error by the sample size.

$$p = \frac{\text{Loans Without Error}}{\text{Sample Size}}$$

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*.

$$\text{Standard Error of Proportion} = \text{Square Root } ((P) \times (1-P) / (\text{Sample Size} - 1))$$

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 1.44 [infinite universe] for the required 85% confidence level, subtract the *relative error x (times) T* from *P*.

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

Appendix F to this Guide includes an example of the computation of the statistical projection of the lower limit of the compliance performance percentage.

## SECTION III

### PROCEDURES FOR INDEPENDENT PRACTITIONER

If the internal auditor or other personnel has performed the procedures set forth in Section II the independent practitioner must perform the following procedures during the initial designation review and subsequent annual reviews. The procedures should be applied to all work performed during the 12 month period covered by the annual review.

A. **Review of Applicable Legislation**: The Exceptional Performance Legislation and applicable Federal Regulations and Policy Memoranda should be read.

B. **Information and Procedures**: Obtain from servicer management, and read, the following information for the servicer's most recently completed four quarters and perform the procedures indicated with respect to such information:

1. **Management's Assertions**: Documentation of Management's assertions as described In Section I, Management's Assertions and Scope.

2. **Servicer Reporting Package(s)**: Servicer reporting package(s) for review period(s) to be reported on be the independent practitioner.

3. **Internal Auditor's Workpapers**: If an internal auditor or other personnel performed the procedures in Section II, obtain the workpapers documenting the performance of those procedures and the chief internal auditor's written representation that (a) the internal auditor or staff performed the procedures in Section II; (b) the internal auditor or staff tested random statistical samples of accounts for each management assertion; (c) the workpapers accurately reflect the work performed by the internal auditor or staff; (d) the workpapers obtained are complete.

**Procedure**: Compare the workpapers to the procedures that are required to be performed under Section II, and report as an exception any procedures not documented and any procedures for which the sample size is not sufficient Compare the exceptions and errors reported in the servicer's reporting package to those found in the workpapers, and report as an exception any exception or error found in the workpapers and not listed in the reported exceptions. Recalculate the compliance percentage taking in to account any unreported errors, if applicable.

C. **Testing by Independent Practitioner**: The practitioner should reperform the procedures listed in Section II on a representative sample of loans tested by the

internal auditor or other personnel. The sample tested for each assertion and review period should be at least 5 percent of the size of the sample tested by the internal auditor or other personnel.

## SECTION IV

### REPORTING

#### SERVICER SUBMISSION PACKAGE

The servicer should retain this submission package for a period of five years, unless notified by HHS to retain for a longer period.

**Initial Application for EP Designation:** A servicer must submit to the Secretary:

1. A written request for designation for EP which includes:
  - The Applicant's Name and Address
  - Contact Person
  - Servicer Identification Number
2. A copy of the Annual Financial Audit (*NOTE: Servicer's that are State or Local Government Agencies or Non Profit Organizations can satisfy their annual financial and compliance audit requirement by having a Single Audit performed*).
3. A complete copy of the *Practitioner's Reporting Package*. (See PRACTITIONER'S REPORTING PACKAGE below.)
4. If procedures described in Section II of this Guide were performed by the internal auditor or other personnel, the following documentation supporting that testing and its results should be provided by the servicer:
  - Documentation of Management's Assertions
  - Summary Schedule of Testing Results and Calculation of Performance Percentage (Appendix F)
  - Any applicable waivers as described in Section II
  - Schedule of Findings (Appendix C, Example 4), if applicable

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

Associate Division Director  
Division of Student Assistance  
HEAL Program  
5600 Fishers Lane  
Room 8-37  
Rockville, MD 20857

HHS will notify the servicer within 10 days of its receipt of the request for EP designation, which includes the required items identified above.

### **Subsequent Quarterly Compliance Engagements**

A servicer must submit within 80 days following the end of each calendar quarter:

1. A letter which includes:

- The Servicer's Name and Address
- Contact Person
- Servicer Identification Number

2. A complete copy of the *Practitioner's Reporting Package* covering the quarterly engagement, assuming the practitioner performed all procedures outlined in Section II. (See Practitioner's Reporting Package section.)

*Or*

If procedures in Section II were performed by internal audit or other personnel, the servicer should submit the following along with No. 1 above:

- Documentation of Management's Assertions
- Summary Schedule of Testing Results and Calculation of Performance Percentage (Appendix F)
- Any applicable waivers as described in Section II
- Schedule of Findings (Appendix C, Example 4), if applicable

### **Subsequent Annual Compliance Engagements**

Subsequent annual compliance reports must be submitted within 80 days following the end of the fourth quarter.

Assuming the practitioner performed all procedures outlined in Section II, subsequent annual reviews will require submission of the following items:

1. A letter which includes:

- The Servicer's Name and Address
- Contact Person
- Servicer Identification Number

## 2. Fourth quarter's *Practitioner's Reporting Package*

3. A copy of the Annual Financial Audit (*NOTE: servicer's that are State or Local Government Agencies or Non Profit Organizations can satisfy their annual financial and compliance audit requirements by having a Single Audit performed*).

If internal audit or other personnel performed procedures in Section II for any of the four quarterly reviews, the following items are to be submitted by the servicer.

1. A letter which includes:

- The Servicer's Name and Address
- Contact Person
- Servicer Identification Number

2. The fourth quarter *Servicer's Reporting Package* including:

- Documentation of Management's Assertions
- Summary Schedule of Testing Results and Calculation of Performance Percentage (Appendix F)
- Any applicable waivers as described in Section II
- Schedule of Findings (Appendix C, Example 4), if applicable

3. A complete copy of the annual *Practitioner's Reporting Package*. (See Practitioner's Reporting Package section.)

## PRACTITIONER'S REPORTING PACKAGE

The servicer should retain this reporting package for a period of five years, unless notified by HHS to retain for a longer period.

The practitioner's reports should be submitted to the servicer's governing body (for example, Board of Directors) and/or President, as appropriate. The report should clearly indicate the period covered by the report.

### Management Assertion

As required by SSAE No.4, the servicer management should provide assertions to the practitioner. The assertion should be made as a result of management evaluation and determination of a compliance percentage of at least 97% pertaining to timely and proper transition to repayment, interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing.

The assertion should be presented in writing in a representation letter or another written communication from the servicer. The written assertion should identify the point in time or period of time covered. (Appendix C, Example 3 provides an example). NOTE: Failure of the 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.

### **Initial Designation Review**

If the independent practitioner performed all procedures outlined in Section II, the practitioner's reporting package should include the following:

1. Independent Auditor's Report on Applying Agreed-Upon Procedures (Appendix C, Example 1).
2. Summary Schedule of Testing Results and Calculation of Performance Percentage (Appendix F).
3. Any applicable waivers as described in Section II.
4. 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.
5. Schedule of Findings (Appendix C, Example 4). The practitioner should prepare this schedule if noncompliance is identified during this agreed-upon procedures engagement.
6. Information Sheet (Appendix C, Example 5).

If procedures outlined in Section II were performed by the internal auditor or other personnel and procedures in Section III performed by the independent practitioner, the practitioner's reporting package should include the following:

1. Independent Auditor's Report on Applying Agreed-Upon Procedures (Appendix C, Example 2).
2. Summary Schedule of Testing Results and Calculation of Performance Percentage (Appendix F).
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 Findings (Appendix C, Example 4). The practitioner should prepare this schedule if noncompliance is identified during this agreed-upon procedures engagement.

5. Information Sheet (Appendix C, Example 5).

### **Quarterly Compliance Reviews**

No independent practitioner reporting is required on a quarterly basis if the internal auditor or other personnel perform procedures outlined in Section II to satisfy the quarterly compliance requirement.

If Section II procedures are performed by the independent practitioner to satisfy this requirement, the practitioners reporting package should include the following:

1. Independent Auditor's Report on Applying Agreed-Upon Procedures (Appendix C, Example 1).

2. Summary Schedule of Testing Results and Calculation of Performance Percentage (Appendix F).

3. Any applicable waivers as described in Section II.

4. 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.

5. Schedule of Findings (Appendix C, Example 4). The practitioner should prepare this schedule if noncompliance is identified during this agreed-upon procedures engagement.

6. Information Sheet (Appendix C, Example 5).

### **Subsequent Annual Compliance Engagements**

If the independent practitioner performs all procedures outlined in Section II to satisfy each quarterly compliance requirement, no additional annual reporting is required.

If the quarterly compliance reviews are performed by the internal auditor or other personnel, the independent practitioner is required to perform and report on procedures outlined in Section III. The reporting package should include:

1. Independent Auditor's Report on Applying Agreed-Upon Procedures (Appendix C, Example 2).
2. Summary Schedule of Testing Results and Calculation of Performance Percentage (Appendix F).
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 Findings (Appendix C, Example 4). The practitioner should prepare this schedule if noncompliance is identified during this agreed-upon procedures engagement
5. Information Sheet (Appendix C, Example 5).

DIVISION OF STUDENT ASSISTANCE CONTACT POINT FOR GUIDE

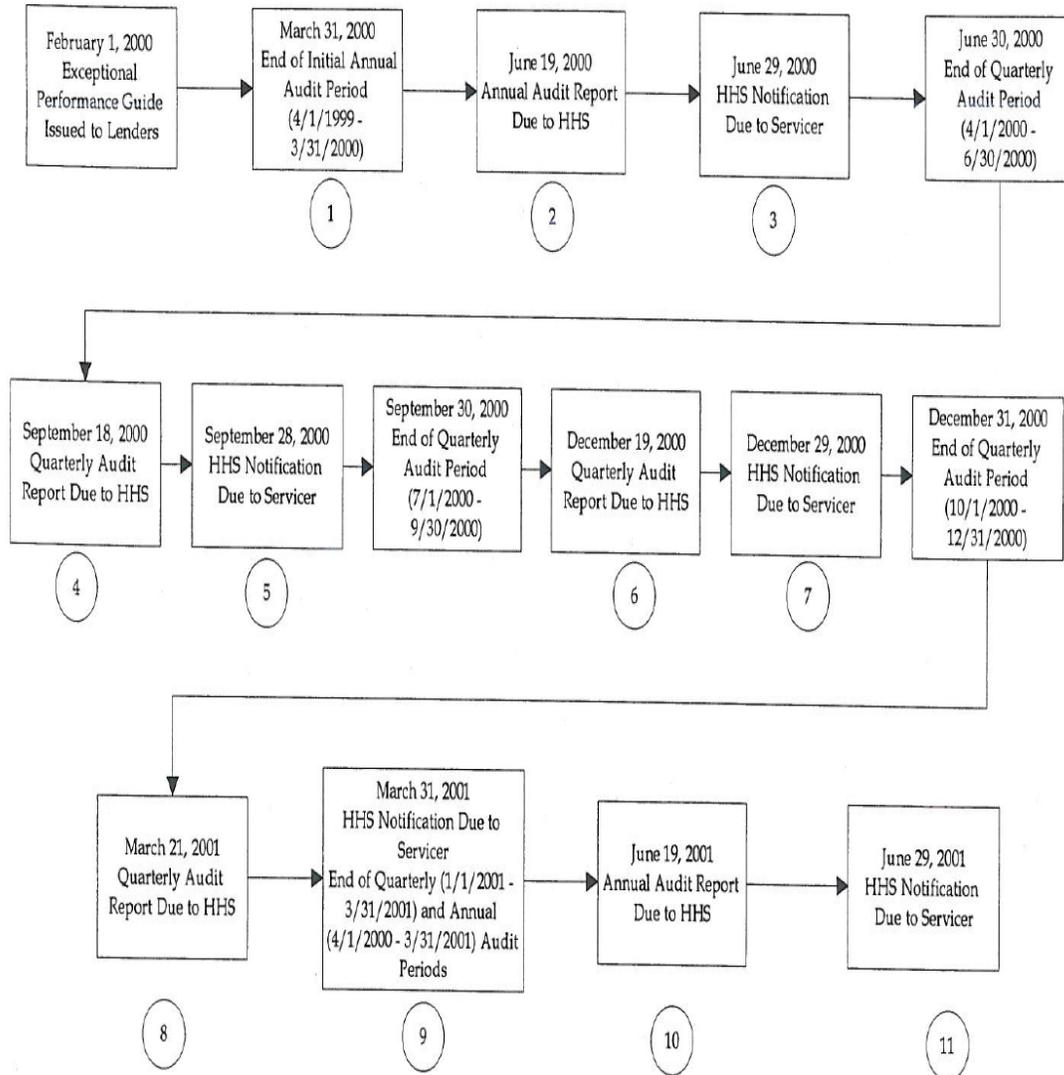
Please direct all questions concerning the EP Agreed-Upon Procedures Guide to the following e-mail address and/or telephone number. In contacting this office, make sure that you provide the name, address, telephone and fax number, and email address of the person requesting assistance so that a prompt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

Terri Ehrenfeld  
Tehrenfeld@hrsa.gov

Or

Denise Sorrell  
Dsorrell@hrsa.gov  
(301) 443-1540

**APPENDIX B**  
**EXCEPTIONAL PERFORMANCE STANDARD**  
**TIMELINE OF EVENTS**



# See Timeline Notes at pages 2 - 5 of this Appendix

## APPENDIX B

### EXCEPTIONAL PERFORMANCE STANDARD TIMELINE NOTES

1. Servicers must perform and satisfactorily complete the requirements for the Exceptional Performance Standard for the period of 4/1/1999 - 3/31/2000 to be eligible for the retroactive 2% reimbursement and associated accrued interest. A servicer may choose to postpone application for the designation until a later date; however, the retroactive reimbursement will be forfeited.
2. Audit reports are due to HHS no later than 80 days from the completion of the audit period. Late reporting will result in the denial or loss of designation for the succeeding audit period.
3. HHS will provide official notification to servicers within 10 days of receipt of the audit report.
  - Passing Review: Servicer is granted exceptional performance designation. 2% reimbursed back to May 1999, claims paid at a maximum of 100% going forward.
  - Failing Review: Lender denied exceptional performance standard, no retroactive reimbursement Claims continue to be paid at a maximum of 98%.
4. Audit reports are due to HHS no later than 80 days from the completion of the audit period. Late reporting will result in the denial or loss of designation for the succeeding audit period. Annual audit report from non-exceptional performers may be submitted for the 7/1/1999 - 6/30/2000 period.
5. HHS will provide official notification to servicers within 10 days of receipt of the audit report
  - Exceptional performers passing quarterly review continue to receive a maximum of 100% reimbursement
  - Exceptional performers failing quarterly review will lose the designation, claims are reimbursed at a maximum of 98% going

forward.

- Non-exceptional performers passing an annual review will gain the designation, claims are paid at a maximum of 100% going forward. No retroactive payment due from HHS.
- Non-exceptional performers failing annual review will continue to receive a maximum of 98% reimbursement.

6. Audit reports are due to HHS no later than 80 days from the completion of the audit period. Late reporting will result in the denial or loss of designation for the succeeding audit period. Annual audit report from non-exceptional performers may be submitted for the 10/1/1999 - 9/30/2000 period.

7. HHS will provide official notification to servicers within 10 days of receipt of the audit report.

- Exceptional performers passing quarterly review continue a maximum of 100% reimbursement.
- Exceptional performers failing quarterly review lose designation; claims are reimbursed at a maximum of 98% going forward.
- Prior exceptional performers (i.e., servicers having gained the exceptional performer designation through the annual review, but lost the designation through a subsequent quarterly review) passing quarterly review for redesignation are reimbursed at a maximum of 100% going forward.
- Prior exception performers failing quarterly review for redesignation continue a maximum of 98% reimbursement.
- Non-exceptional performers passing annual review gain designation, claims are paid at a maximum of 100% going forward. No retroactive payment due.
- Non-exceptional performers failing annual review continue a maximum of 98% reimbursement.

8. Audit reports are due to HHS no later than 80 days from the completion of the audit period. Late reporting will result in the denial or loss of designation for the succeeding audit period. Annual audit report from non-exceptional performers may be submitted for the 1/1/2000 -

12/31/ 2000 period.

9. HHS will provide official notification to servicers within 10 days of receipt of the audit report.

- Exceptional performers passing quarterly review continue a maximum of 100% reimbursement.
- Exceptional performers failing quarterly review lose designation; claims are reimbursed at a maximum of 98% going forward.
- Prior exceptional performers passing quarterly review for redesignation are reimbursed at a maximum of 100% going forward.
- Prior exception performers failing quarterly review for redesignation continue a maximum of 98% reimbursement.
- Non-exceptional performers passing annual review gain designation, claims are paid at a maximum of 100% going forward. No retroactive payment due.
- Non-exceptional performers failing annual review continue a maximum of 98% reimbursement.

10. Audit reports are due to HHS no later than 80 days from the completion of the audit period. Late reporting will result in the denial or loss of designation for the succeeding audit period.

11. HHS will provide official notification to servicers within 10 days of receipt of the audit report.

#### Annual Reviews

- Passing Review: Servicer is granted exceptional performance designation; claims paid at a maximum of 100% going forward.
- Failing Review: Servicer denied exceptional performance standard; claims paid at a maximum of 98% going forward.

#### Quarterly Reviews

- Exceptional performers passing quarterly review continue a maximum of 100% reimbursement.

- Exceptional performers failing quarterly review lose designation; claims are reimbursed at a maximum of 98% going forward.
- Prior exceptional performers passing quarterly review for redesignation are reimbursed at a maximum of 100% going forward.
- Prior exceptional performers failing quarterly review for redesignation continue a maximum of 98% reimbursement.

**APPENDIX B**  
**EXCEPTIONAL PERFORMANCE STANDARD**  
**TESTING AND SUBMISSION REQUIREMENTS**

Testing Area	Frequency of Submission
Independent Auditor's Report on Applying Agreed Upon Procedures	Annually
Annual Financial Audit	Annually
Transition to Repayment	Quarterly  *Annual independent 5% Reperformance
Interest Capitalization	Quarterly  *Annual independent 5% Reperformance
Payment Processing	Quarterly  *Annual independent 5% Reperformance
Deferment/ Forbearance Processing	Quarterly  *Annual independent 5% Reperformance
Delinquent Loan Processing	Quarterly  *Annual independent 5% Reperformance

\*Required only when Section II procedures are performed by the internal auditor or other personnel.

ILLUSTRATIVE (PRACTITIONER PERFORMANCE)

INDEPENDENT AUDITOR'S REPORT ON APPLYING  
AGREED-UPON PROCEDURES<sup>1</sup>

To [Servicer]

We have performed the procedures included in Section II of the *Health Education Assistance Loan (HEAL) Exceptional Performance Standard Audit Guide*, issued by the Department of Health and Human Services (HHS) in February 2000. Those procedures in the representation letter dated \_\_\_\_\_, which were agreed to by [insert servicer name] and HHS, were performed solely to assist the users in evaluating management's assertions about [insert servicer name] compliance performance percentage during the period [insert period of management's assertions]. This agreed upon procedures engagement was performed in accordance with the 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. This report does not constitute a legal determination as to (name of entity) compliance with specified requirements.

The agreed-upon procedures included our computation of a compliance performance percentage in accordance with the instructions in the Guide for transition to repayment, interest capitalization, payment processing, deferment/ forbearance processing, and delinquent loan processing. Our calculation is based solely on a statistical sample selection of (insert number of loans sampled) loans in accordance with the sample size requirements specified in the Guide that were serviced during the period for which management's assertion is being made. Based on our sample, we computed a compliance performance percentage of [insert compliance percentage]%. A more detailed breakout of our compliance performance percentage computation is provided as Attachment [insert Attachment #] (The Summary Table and Computation of Compliance Performance Percentage - Appendix F - should be provided as the Attachment).

---

<sup>1</sup> This is an illustration of an agreed-upon procedures report on management's assertion about an entity's compliance with specific requirements as set forth in Statement on Standards for Attestation Engagements, Agreed-Upon Procedures Engagements, Appendix B, Paragraphs 24 and 25, issued in September 1995.

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 servicer's name] management and the Department of Health and Human Services, 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 distribution is not limited.

[Firm Signature]

[Date]

ILLUSTRATIVE (PRACTITIONER AND INTERNAL AUDIT/OTHER  
PERSONNEL PERFORMANCE)

INDEPENDENT AUDITOR'S REPORT ON APPLYING  
AGREED-UPON PROCEDURES<sup>2</sup>

To [Servicer]

We have performed the procedures included in Section III of the *Health Education Assistance Loan (HEAL) Exceptional Performance Standard Audit Guide*, issued by the Department of Health and Human Services (HHS) in February 2000. Those procedures included in the representation letter dated \_\_\_\_\_, which were agreed to by [insert servicer name] and HHS, were performed solely to assist the users in evaluating management's assertions about [insert servicer name] compliance performance percentage during the period {insert period of management's assertions}. This agreed upon procedures engagement was performed in accordance with the 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. This report does not constitute a legal determination as to (name of entity) compliance with specified requirements.

The agreed-upon procedures included recomputation of a compliance performance percentage in accordance with the instructions in the Guide for transition to repayment interest capitalization, payment processing, deferment/forbearance processing, and delinquent loan processing. The calculation is based solely on a statistical sample selection of [insert number of loans sampled) loans in accordance with the sample size requirements specified in the Guide that were serviced during the period for which management's assertion is being made. Based on this sample, a compliance performance percentage of [insert compliance percentage)% was computed. As provided in Section III of the guide, we relied solely on a 5 percent reperformance of compliance testing performed by [insert servicer name} internal audit/other personnel to recalculate the reported

---

<sup>2</sup> This is an illustration of an agreed upon procedures report on management's assertion about an entity's compliance with specific requirements as set forth in Statement on Standards for Attestation Engagements, Agreed-Upon Procedures Engagements, Appendix B, Paragraph 24, issued in September 1995.

compliance percentage. A more detailed breakout of the compliance performance percentage computation is provided as Attachment [insert Attachment #] (The Summary Table and Computation of Compliance Performance Percentage - Appendix F - should be provided as the Attachment).

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 servicer's name] management and the Department of Health and Human Services, 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 distribution is not limited.

[Firm Signature]

[Date]

ILLUSTRATIVE

REPRESENTATION LETTER TO PRACTITIONER INCLUDING  
MANAGEMENT'S ASSERTION ON COMPLIANCE  
WITH REQUIREMENTS IN SUPPORT OF  
EXCEPTIONAL PERFORMANCE STATUS<sup>3</sup>

To [insert name of practitioner]:

We [insert servicer name] are responsible for complying with the requirements pertaining to collection activities on defaulted loans, timely claim payments, and timely reinsurance filings, 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 period from/to [insert period covered by the evaluation]. Based on our evaluation, we determined an overall compliance performance percentage of at least 97 percent pertaining to these requirements. We have disclosed all known noncompliance items and have made available all documentation related to compliance with the aforementioned requirements.

[Optional paragraph is applicable (ref. SSAE No.4, par. 40)]

We have also disclosed all known matters contradicting the assertion. We have also disclosed any communications from the U.S. Department of Health and Human Services, our internal auditors, and other practitioners concerning possible noncompliance with the aforementioned compliance requirements, including any communications received between the period identified above and 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 identified above.

[Insert Management Official Name]  
[Servicer Name]  
[Insert Date]

---

<sup>3</sup> The required elements of management's representations are listed in paragraph 70 of SSAE No.3 and paragraph 40 of SSAE No.4.

ILLUSTRATIVE

SCHEDULE OF FINDINGS

The Schedule of Findings should include the information outlined below, where applicable. *Government Auditing Standards* states that well-developed findings generally consist of the following attributes:

1. Statement of condition - the nature of the deficiencies (e.g., a regulation not being followed).
2. Criteria - what the entity should be doing (e.g., the specific regulation, etc.)
3. Effect - what happened as a result of the condition.
4. Cause - why the condition exists (if known).
5. Recommendation - what the entity should do to correct the condition; normally addresses the cause.

Since this agreed-upon procedures engagement is not requiring a review of the servicer's internal control structure, the practitioner is not required to identify cause nor provide specific recommendations for improvement.

ILLUSTRATIVE  
PRACTITIONER INFORMATION SHEET

Audit Firm: ABC Auditing Company  
232 Massachusetts Avenue  
Suite 202  
Washington, DC 20005

Telephone: (202) XXX-XXXX

Fax: (202) XXX-XXXX

E-mail: abc@XYZ.com

Partner in charge: Robert Smith

**APPENDIX D**  
**STATISTICAL SAMPLE SIZES FOR COMPLIANCE TESTING**  
**85% CONFIDENCE AND 3% TOLERABLE ERROR RATE**

**Expected Error Rate**

<b>Population</b>	<b>0.00%</b>	<b>0.25%</b>	<b>0.50%</b>	<b>0.75%</b>	<b>1.00%</b>	<b>1.25%</b>	<b>1.50%</b>	<b>1.75%</b>	<b>2.00%</b>	<b>2.25%</b>	<b>2.50%</b>	<b>2.75%</b>	<b>3.00%</b>
≥ 5,000	63	111	111	111	156	198	198	319	397	735	1,239	4,069	**
2,500 - 4,999	62	111	111	111	155	197	197	318	396	694	1,159	3,214	**
1,000 - 2499	62	110	110	110	154	195	195	275	390	645	960	1,997	**
900 - 999	61	107	107	107	150	150	190	266	338	476	638	925	**
800 - 899	61	107	107	107	149	149	189	264	300	471	598	849	**
700 - 799	60	106	106	106	148	148	187	262	298	432	557	749	**
600 - 699	60	106	106	106	147	147	186	259	294	425	516	671	**
500-599	60	105	105	105	145	145	183	220	289	384	472	590	**
400-499	59	103	103	103	143	143	180	216	250	342	399	490	**
300-399	58	101	101	101	140	140	176	209	242	298	350	391	**
200-299	57	98	98	98	98	135	168	199	199	250	273	299	**
100-199	54	92	92	92	92	124	124	153	177	173	191	199	**
<100*	47	76	76	76	76	76	95	95	95	99	99	99	**

\*If the number of loans in the population is less than the minimum sample size, 100% of the population is to be tested.

\*\* Sample size is too large to be cost effective for most audit applications.

APPENDIX E  
TABLE 1  
TRANSITION TO REPAYMENT TESTING

**Assertion:** Repayment commenced timely and accurately as defined by regulation section 60.11.

Sample Number	Account Number	Borrower Name	Repayment Begin Date (1)	Separation Date (2)	Borrower Notification (3)	Repayment Plan (4)	Repayment Term (5)	Interest Rate (6)	Payment Amount (7)	Amortized Correctly? (8)

To simplify the audit process, HHS recommends downloading information in highlighted fields from the serving system automatically.

Whether manually or automatically populated, highlighted fields should contain system data.

**Testing Instructions:**

For each loan in the sample, populate required information in highlighted fields and obtain a copy of the most recent repayment schedule.

Inspect data in each field as instructed below.

- (1) Based on separation or deferment end date, is repayment begin date set timely?
  - (2) Trace separation/deferment end date to supporting documentation.
  - (3) Was borrower notified of repayment options between 30 and 60 days prior to commencement of repayment period, if applicable?
  - (4) Compare repayment option election forms returned by the borrower to terms set up on the system, were appropriate terms set up? If no forms were returned, was borrower given level repayment terms?
  - (5) Is repayment period within the allowable term limits? Does repayment term on system agree to that on the repayment obligation?
  - (6) Is the interest rate correct? Does interest rate on system agree to that on the most recent repayment obligation and/ or the promissory note?
  - (7) Does payment amount meet minimum payment requirements? Does payment amount agree to terms selected by the borrower?
  - (8) Amortize loan using terms on the repayment obligation. Does loan amortize correctly according to terms?
- (Note: Absolute value of remaining balance should not exceed last payment amount)

APPENDIX E  
TABLE 2  
INTEREST CAPITALIZATION TESTING

**Assertion:** Interest is capitalized timely and accurately in accordance with regulation section 60.13 and the terms outlined on the promissory note and /or disclosure.

Sample Number	Account Number	Borrower Name	Date Interest Capped (1)	Amount Capped (2)

To simplify the audit process, HHS recommends downloading information in highlighted fields from the servicing system automatically.

Whether manually or automatically populated, highlighted fields should contain system data.

**Testing Instructions:**

For each loan in the sample, populate required information in highlighted fields and obtain loan documentation detailing capitalization of interest terms agreed to by the borrower. Inspect data in each field as instructed below.

- (1) Is capitalization of interest at this time valid based on regulation section 60.13 (b) and the terms of the borrower's prom note/ disclosure?
- (2) Recalculate the capped interest amount taking into consideration changes in interest rates and principal balance. Is cap amount correct?

APPENDIX E  
TABLE 3  
PAYMENT PROCESSING TESTING

**Assertion:** Billings are prepared accurately and in accordance with repayment terms disclosed to the borrower.  
Borrower payments are posted within 5 business days of receipt, with the correct effective date, and applied first to outstanding late fees, then to interest and finally to principal.

Sample Number	Account Number	Borrower Name	Payment Amount	Post Date	Effective Date	Days to Post (2)	Applied to Late Fees (1)	Applied to Interest (1)	Applied to Principal (1)
						Calculated value			

To simplify the audit process, HHS recommends downloading information in highlighted fields from the servicing system automatically.

Whether manually or automatically populated, highlighted fields should contain system data.

**Testing Instructions:**

For each loan in the sample, populate required information in highlighted fields and inspect data in each field as instructed below.

- (1) Was payment applied correctly, first to late fees, then interest and finally principal?
- (2) Was payment applied timely (within five business days of receipt with the receipt date being day one)?
- (3) Inspect most recent billing, is payment amount accurate and consistent with repayment terms disclosed to the borrower?

APPENDIX E  
TABLE 4  
DEFERMENT/FORBEARANCE PROCESSING

**Assertion:** Deferments and forbearances granted during the audit period were processed accurately, within 5 business days of receipt and in accordance with regulation section 60.12.

Sample Number	Account Number	Borrower Name	Def/Forb Type	Is Borrower Eligible? (1)	Begin Date (2)	End Date (2)	Date Received	Date Applied	Days to Process (3)
									Calculated value

To simplify the audit process, HHS recommends downloading information in highlighted fields from the servicing system automatically.

Whether manually or automatically populated, highlighted fields should contain system data.

**Testing Instructions:**

For each loan in the sample, populate required information in highlighted fields, obtain the form for the deferment/ forbearance to be tested, and inspect data in each field as instructed below.

- (1) Is borrower eligible for deferment/forbearance?
- (2) Is length of deferment within incremental and maximum time limits?
- (3) Was form processed timely (within five business days of receipt with the receipt date being day one)?

APPENDIX E  
TABLE 5  
DELINQUENT LOAN PROCESSING

**Assertion:** For all delinquent loans during the audit period, due diligence was performed in accordance with regulation section 60.35:

Sample Number	Account Number	Borrower Name	Delinquency Date	First Notice (1)	Second Notice (2)	Third Notice (2)	Fourth Notice (2)	Phone Contact (3)	Credit Bureau (4)	PCA (5)	Final Demand (6)	Litigation Initiated (7)	Claim Filed (7)

To simplify the audit process, HHS recommends downloading information in highlighted fields from the servicing system automatically.

Whether manually or automatically populated, highlighted fields should contain system data.

**Testing Instructions:**

For delinquent loans in the sample, trace performance of all required due diligence during the audit period.

- (1) First notice to be sent within 15 days of due date.
- (2) 2nd, 3rd and 4th notices to be sent at regular intervals during the 120 day delinquent period.
- (3) Last contact must include phone contact (2 attempts/ 1 contact)
- (4) Credit Bureau reporting required between 60 - 90 days delinquent.
- (5) PCA at 90 days delinquent.
- (6) Final demand sent after 120 days in all instances, and at least 30 days prior to default claim filing if the holder does not sue the borrower.
- (7) Was claim filed or litigation initiated according to terms in regulation section 60.35?

EXAMPLE CALCULATION - COMPLIANCE PERFORMANCE  
PERCENTAGE SUMMARY TABLE/COMPUTATION OF COMPLIANCE

(EXAMPLE SUMMARY TABLE)

Compliance Area	Number of Loans Sampled	Number of Loans Without Error
1. Transition to Repayment	63	61
2. Interest Capitalization	111	109
3. Payment Processing	156	150
4. Deferment/Forbearance Processing	111	108
5. Delinquent Loan Processing	63	63
<b>TOTAL COMPLIANCE</b>	<b>504</b>	<b>491</b>

**Example Calculation of Compliance Performance Percentage:**

**Note: All calculations are to be brought out to no less than six significant digits.**

Sample Size (S) = 504

P = .974206 (491/504)

I - P = .025794 (1 - .974206)

Standard Error of Proportion = Square Root ((.974206x.025794/503))

= .007068

Relative Error = .007068/.974206

= .007255

Compliance % = .974206 - (.007255 x 1.44<sup>4</sup>)

= .963759

For this example, the practitioner should be 85% confident that the lower limit of the servicer's compliance performance percentage is not below .963759. However, this lower limit is below the required 97% minimum compliance performance requirement. Thus, the servicer does not meet the minimum requirement for designation as EP.

---

<sup>4</sup> T Factor for 85% confidence level. practitioner must use T Factor for specific confidence level desired