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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

July 8, 2014

The Honorable Arne Duncan
Secretary
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Dear Mr. Secretary:

We are writing to request documents and information regarding the Department of Education's contracts for the origination, disbursement, and servicing of student loans.

On June 9, 2014, President Obama announced that the Department of Education would renegotiate the terms of its contracts with the Title IV Additional Servicers (TIVAS) to ensure higher quality service for federal student loan borrowers. On June 17, 2014, just two weeks after the President's announcement, we learned that the Department of Education had extended its existing TIVAS contracts with Navient Corp. (formerly part of Sallie Mae), Great Lakes Educational Loan Services Inc., Nelnet Inc. and the Pennsylvania Higher Education Assistance Agency.[1]

While we acknowledge the Department's view that these extensions do not adversely affect its ability to renegotiate these contracts, we remain deeply concerned about the potential for this action to undermine the President's efforts. To achieve President Obama's goals, the Department of Education must use all of its leverage to negotiate strong consumer protections and performance standards that include real consequences for noncompliance.

We are also concerned that the Department's decision to continue its contracting relationship with Navient may have failed to adequately consider current investigations into Sallie Mae/Navient's loan practices. As you are aware, Navient recently agreed to pay nearly $100 million to settle allegations that it overcharged U.S. servicemembers for their student loans and obtained default judgments against service members in violation of the Servicemembers Civil Relief Act (SCRA).[2] We understand that the Department has pledged to conduct its own investigation into Navient's practices, and that that investigation will not be complete for several

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[1] *U.S. Extends Navient Student Loan Contract; Navient Had Come Under Fire for Allegations it Overcharged Military Members, Hit Borrowers with Excessive Fees*, The Wall Street Journal (June 17, 2014).

[2] *Sallie Mae to Pay $97 Million for Unlawfully Charging Troops on Student Loans*, The Washington Post (May 13, 2014).

months.[3] However, on May 30, 2014, the Department announced the four finalists for Phase II of its solicitation for origination and disbursement contracts.[4] According to the Department's announcement, the four finalists were Accenture Federal Services, Nelnet Servicing, Team Great Lakes – and Navient.[5]

We thank you for the cooperation of your staff to date, but we continue to have concerns regarding the Department's planning, competition, management, and oversight of the student loan servicing contracts. To better understand the Department of Education's contracting process and the role(s) filled by contractors in the Department's administration of student loans, we request that you provide the following documents and information:

(1) A list of all contractors involved in the administration of student loans, including the contract number, date of award, and a brief description of the services provided for each contract;

(2) All audits of contractors involved in the origination, disbursement, servicing and collection of student loans, including audits conducted by the Defense Contract Audit Agency, if any;

(3) The final contracts and all modifications awarded for servicing of Federal Direct student loans, including the contract extension to the TIVAS contractors;

(4) All Independent Government Cost Estimates conducted by the Department of Education related to contracts for servicing Federal Direct student loans;

(5) The payment history and invoice history, including the use of any award or incentive fees for the contracts, and any related communications, for student loan servicing contracts;

(6) Reports regarding the performance of the current student loan servicing contractors, whether prepared by the Department or contractors;

(7) Information sufficient to show the Department's planning for future loan servicing contracts, including any information on expanding the pool of potential bidders;

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[3] *Former Sallie Mae Unit Up For Lucrative Education Department Contract*, The Huffington Post (June 9, 2014).

[4] Federal Business Opportunities, *Title IV Financial Aid Origination and Disbursement* (May 30, 2014) (online at https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=cfbce86011f9e9b50bd80d9cbbe8af55&_cview=0).

[5] Federal Business Opportunities, *Title IV Financial Aid Origination and Disbursement* (May 30, 2014) (online at https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=cfbce86011f9e9b50bd80d9cbbe8af55&_cview=0).

(8) The memoranda which documented the justification for the award of both the current contracts and the recent extensions to the TIVAS, any trade-offs made during the selection process, the negotiation with the TIVAS, the responsibility determination, and the determination of price reasonableness;

(9) Any analyses regarding the contract vehicle(s) used for the TIVAS contracts;

(10) Any analyses regarding the nature, scope, and impact of proposed changes to the TIVAS contracts that President Obama announced in June.

(11) Performance metrics, evaluations, including justifications required under Federal Acquisition Regulation § 41.15 regarding prime contractors' performance, and any communications or memoranda related to performance metrics for the TIVAS contracts;

(12) Information sufficient to show how the TIVAS contractors' performance is measured and monitored under the current contracts and any communications related to performance metrics and monitoring;

(13) Information sufficient to show how the TIVAS are rated for performance related to the status of borrowers in default;

(14) For each of the TIVAS contractors, the portion of non-defaulted loans (by dollar value and number of borrowers) that fall into the following categories: (a) hardship deferment, (b) in-school deferment, (c) other deferment, (d) administrative forbearance, (e) other forbearance, (f) actively repaying in an income-based repayment plan, (g) actively repaying in a graduated repayment plan, (h) actively repaying in an extended repayment plan, and (i) actively repaying in an extended graduated repayment plan;

(15) Information sufficient to show how the panel selected the four finalists for the origination and disbursement contract;

(16) Information sufficient to show how the Department plans to address Navient's contracts while the company is under investigation, including any plans for additional oversight, monitoring, or audits of Navient's current contracts; and

(17) Information sufficient to show the status of the Department's investigation into potential violations of the Servicemembers Civil Relief Act by Navient and other contractors, if any.

We request that you provide this information and supporting documentation as soon as possible, but no later than **July 29, 2014**. Additionally, we request that your staff provide a briefing to Senate staff on the information provided no later than August 8, 2014.

The jurisdiction of the Subcommittee on Financial and Contracting Oversight is set forth in Senate Rule XXV clause 1(k); Senate Resolution 445 section 101 (108th Congress); and Senate Resolution 64 (113th Congress).

I appreciate your assistance. Please contact Sarah Garcia with Chairman McCaskill's Subcommittee staff at (202) 224-5602 or Julie Morgan with Senator Warren's staff at 202-224-4543 with any questions. Please send any official correspondence relating to this request to Kelsey_Stroud@hsgac.senate.gov.

Sincerely,

Claire McCaskill
Chairman
Subcommittee on Financial and
Contracting Oversight

Elizabeth Warren
U.S. Senator

Jon Tester
Member

Tammy Baldwin
Member

Patty Murray
U.S. Senator

Richard Durbin
U.S. Senator

Jack Reed
U.S. Senator

Sherrod Brown
U.S. Senator

Richard Blumenthal
U.S. Senator

cc: Ron Johnson
Ranking Member
Subcommittee on Financial and Contracting Oversight