Congress of the United States
Washington, DC 20510

February 5, 2018

The Honorable Kathleen S. Tighe
Inspector General
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, D.C. 20202

Dear Ms. Tighe:

We write to request that the Office of the Inspector General review the U.S. Department of Education's ("Department") contracts with private collection agencies (PCAs) to determine whether there is any current or potential waste or misuse of taxpayer dollars. Additionally, we request that the Office of the Inspector General review the implementation status of corrective actions outlined in four documents focused on the Department's oversight of PCAs released by the Office of the Inspector General between May 2013 and September 22, 2014.[1]

The Department pays PCAs to collect on defaulted federal student loan debt from struggling borrowers who have fallen behind on their payments and subsequently defaulted on their federal student loans. Each year, approximately one million federal student loan borrowers – many of whom are older, low-income and from underserved communities of color – default on $20 billion of student loan debt.[2] To collect on this defaulted debt, the Department pays an estimated $1.4 billion in taxpayer subsidies to 30 PCAs.[3] We have significant concerns that the Department's system of contracting and oversight may be neither in the federal fiscal nor borrowers' interest.

The Consumer Financial Protection Bureau (CFPB) estimates that, in some cases, the Department pays PCAs nearly $40 in compensation for every $1 in cash recovered from certain borrowers through loan rehabilitation.[4] Further, nearly one-in-three borrowers who cure default through rehabilitation default again within 24 months and 40 percent of those borrowers re-default within three years.[5] Of the borrowers who re-default following rehabilitation, more than 75 percent failed to successfully make even a single monthly payment to their student loan servicer.[6] PCAs' failure to successfully help borrowers enter an income-driven repayment plan and manage their debt after rehabilitation indicates that PCAs are providing a negative return at taxpayers' expense.

Similar to the waste in student loan debt collection, a recent report by the Taxpayer Advocate Service of the Internal Revenue Service (IRS) revealed that millions of taxpayer dollars are squandered on PCAs paid by the IRS to recover outstanding tax debts.[7] In 2017, the IRS paid $20 million to PCAs but only recovered $6.7 million in unpaid taxes, failing to generate any net revenue and collecting less than one percent of the amount assigned for collection. Alarmingly, some of the same PCAs that contract with the IRS also contract with the Department to pursue student loan borrowers.

Not only do taxpayers subsidize PCAs to shepherd student loan defaulted borrowers through a failing process, but these borrowers also are burdened with significant collection fees. Defaulted borrowers are required to pay for a portion of the collections on their own loan, which can be as high as 16 percent of outstanding principal and interest, further burdening the most economically distressed consumers and perpetuating intergenerational poverty.

As seen by the collection fees and the incentives established within PCA contracts, PCAs' interests are placed ahead of borrowers' interests repeatedly. Unlike student loan servicing contracts that pay servicers a fixed monthly fee per borrower regardless of their repayment plan, PCAs receive more than 10 times as much to help a borrower enter into a loan rehabilitation as they do to help borrowers consolidate their loans or assist a borrower with loan discharge—solutions that may resolve their default faster. This compensation structure has resulted in about 70 percent of cured defaults being completed through rehabilitation.[8] Despite the longer timeframe for rehabilitation and the substantial compensation paid to the collection agency, however, it is not clear that this practice sets borrowers up for long-term success – as seen by the high re-default rates cited above. This structure has also resulted in PCAs collecting on tens of thousands of borrowers who might be eligible for a student loan discharge.

In addition to the contracting concerns noted above, we question the Department's ability to oversee PCAs. In March 2014, the Government Accountability Office (GAO) issued a report detailing the Department's failure to provide defaulted borrowers who completed loan rehabilitation with important benefits for more than one year.[9] GAO recommended that the Department better monitor loan rehabilitation performance and generally improve oversight. In November 2015, GAO found that the Department had made some progress.[10] Yet the report published by CFPB in October 2016, comprised of 2,300 debt collection complaints by defaulted borrowers, paints a different picture – one where the transition from default into an income-driven repayment plan is muddled by issues with communication, paperwork, and customer service.[11]

Without proper oversight and management, the federal government cannot sufficiently protect student loan borrowers' and taxpayers' interests. We worry that with the recent decision on January 11, 2018 to reduce the number of PCAs and the Department's inability to assign newly defaulted accounts to debt collectors during the ongoing litigation that started in March of 2016, current contractors will need to rely on subcontractors to manage the increased workload. If the Department has little to no oversight of subcontractors, this use of subcontractors can further harm borrowers.

Given the mounting evidence that PCAs are not an efficient way to collect on defaulted debts, as well as the Department's lackluster record of managing contractors,[12] we ask that your office undertake an analysis of potential waste or misuse in the Department's policies and procedures for collecting on student debt through the use of PCAs. We are particularly interested in determining whether employing PCAs is the best use of taxpayer dollars to ensure that borrowers and taxpayers are well-served.

Some of our offices have requested that the Secretary of Education provide essential data to understand the policy implications of contracting PCAs with respect to the Direct Loan Program authorized by the Higher Education Act. In addition to that request, we ask that your office:

1. Review whether the Department has utilized such data – including the per-borrower cost of using PCAs, average amount of collection costs paid by borrowers in default, how much the Department would collect through wage garnishment and the Treasury offset program if it did not contract with PCAs, the underlying data supporting that the net present value of collections is around 77 percent after accounting for collection costs, the median and average collection rate paid by borrowers, and data about the location of debts in collection – to examine the incentives in and efficiency of the PCAs contracts to ensure long-term repayment success for defaulted borrowers.
2. Compare collection costs and actual dollars collected to industry standards, and compare the collection rate against reasonable alternatives, including allowing servicers to take on the role of collecting debt, paying a flat rate to financial counseling agencies, utilizing more online tools for borrowers, and other alternatives to the current structure that could help save taxpayers money and keep borrowers out of default.
3. Review the Department's own process for calculating the net present value of collections and ensure that the Department is utilizing all available and relevant data in calculating this information. Any internal control weaknesses in the Department's budget calculations could result in a different evaluation of incentives in the contracting decisions.
4. Review the Department's capacity to oversee PCAs and its subcontractors and whether the Department has implemented the corrective actions related to its oversight of PCAs outlined in OIG documents from May 2013 to Sept. 2014. With the numerous loan rehabilitation process issues experienced by defaulted borrowers, including poor communication and customer service and a funneling into rehabilitation instead of consolidation, it is important that the Department has the proper policies and procedures in place to oversee these companies.

Given the urgency of the situation confronting borrowers who are struggling with student loan debt, we would appreciate your response as soon as possible and no later than February 22, 2018. Thank you for your prompt attention to this matter.

Sincerely,

Kamala D. Harris

KAMALA D. HARRIS
United States Senator

Suzanne Bonamici

SUZANNE BONAMICI
United States Representative

PATTY MURRAY
United States Senator

ROBERT C. "BOBBY" SCOTT
United States Representative

ELIZABETH WARREN
United States Senator

SUSAN A. DAVIS
United States Representative

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[1] Final Alert Memorandum from Patrick Howard to James Runcie; Final Alert Memorandum from Patrick Howard to James Runcie, May 15, 2013; U.S. Dep't of Ed. Office of Inspector General, Final Audit Report: Handling of Borrower Complaints Against Private Collection Agencies (July 2014); Final Management Information Report from Charles Coe, Jr. to James Runcie (Sept. 22, 2014).

[2] Center for American Progress. "Who Are Student Loan Defaulters?", December 14, 2017, https://www.americanprogress.org/issues/education-postsecondary/reports/2017/12/14/444011/student-loan-defaulters/

[3] White House. President's Budget for Fiscal Year 2018. Appendix, U.S. Department of Education. Page 356: https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/edu.pdf

[4] Consumer Financial Protection Bureau. "Annual report of the CFPB Student Loan Ombudsman." Oct. 17, 2016. https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf

[5] *Id.*

[6] *Id.*

[7] Taxpayer Advocate Service, "2017 Annual Report to Congress", January 10, 2017, https://taxpayeradvocate.irs.gov/reports/2017-annual-report-to-congress/most-serious-problems.

[8] *Id.*

[9] U.S. Government Accountability Office. "Federal Student Loans: Better Oversight Could Improve Defaulted Loan Rehabilitation." March 6, 2014. https://www.gao.gov/products/GAO-14-256

[10] U.S. Government Accountability Office. "Federal Student Loans: Key Weaknesses Limit Education's Management of Contractors. Nov. 18, 2015. https://www.gao.gov/products/GAO-16-196T

[11] Consumer Financial Protection Bureau. "Annual report of the CFPB Student Loan Ombudsman." Oct. 17, 2016. https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf

[12] U.S. Government Accountability Office. "Federal Student Loans: Key Weaknesses Limit Education's Management of Contractors. Nov. 18, 2015. https://www.gao.gov/products/GAO-16-196T