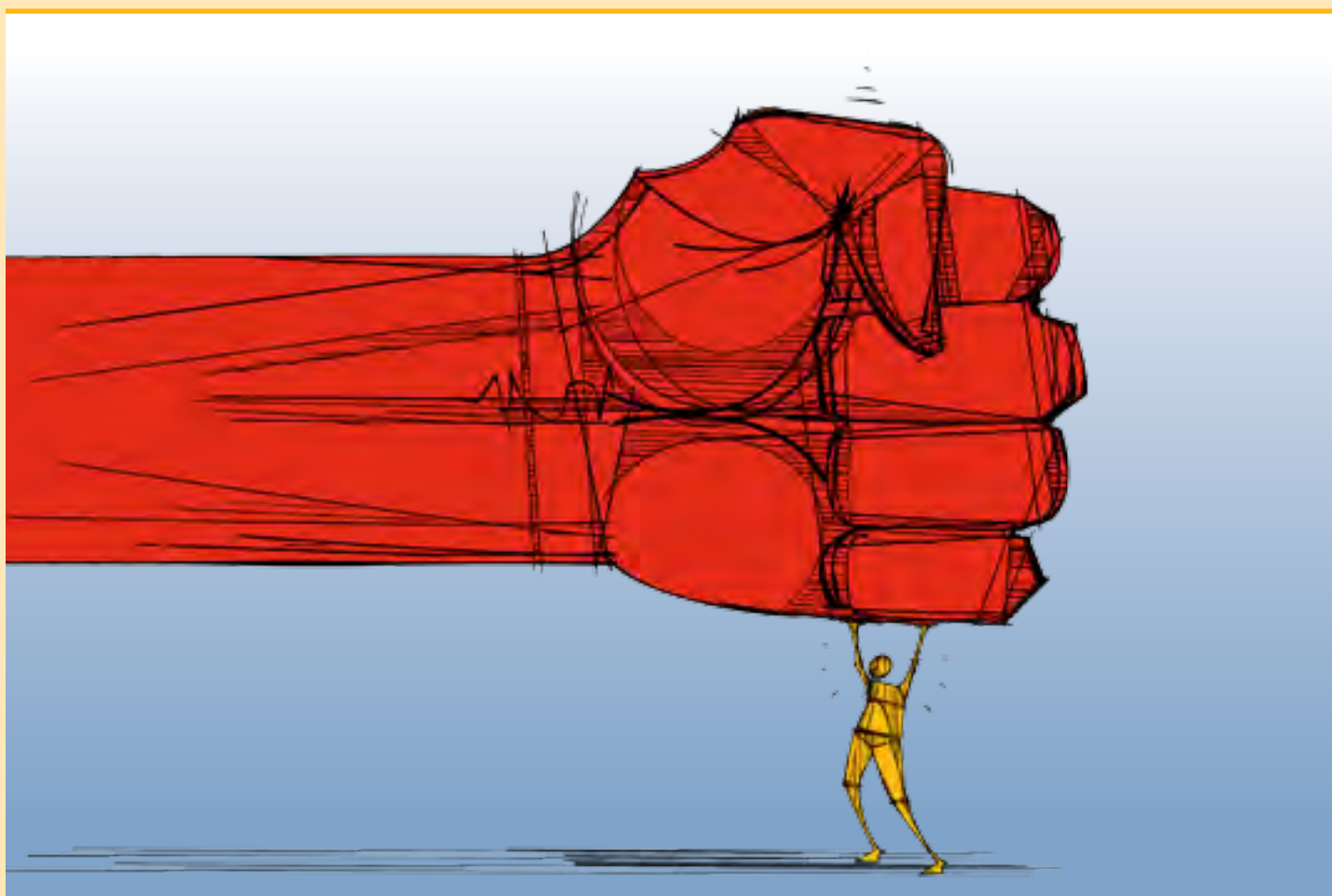


# POUNDING STUDENT LOAN BORROWERS

THE HEAVY COSTS OF THE GOVERNMENT'S  
PARTNERSHIP WITH DEBT COLLECTION AGENCIES



September 2014

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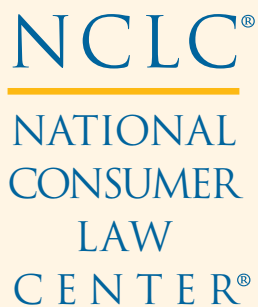
## ACKNOWLEDGMENTS

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NCLC's Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens, and make loan repayment more manageable.

[studentloanborrowerassistance.org](http://studentloanborrowerassistance.org)



## ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

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## EXECUTIVE SUMMARY

The U.S. Department of Education refers every eligible defaulted debt to one of 22 private collection agencies. Despite the history of consumer abuses by the collection industry, the United States government hires collectors not only to collect money, but also to communicate with borrowers about options to address student loan debt and to help borrowers resolve their debt.

There is inherent conflict in these dual responsibilities. Communicating with borrowers about options and helping them resolve their student loan debts is simply not the primary mission of collection agencies. Debt collectors are not adequately trained to understand and administer the complex borrower rights available under the Higher Education Act. To compound the problem, the government has turned a blind eye to borrower complaints and known abuses by debt collection agencies.

Although the government must balance the need to collect student loans with the need to assist borrowers, the current system heavily favors high pressure collection and debt collector profits to the detriment of financially distressed borrowers seeking the help they so desperately need.

This report focuses on the government's private debt collector program, first describing how the current system works and what it costs. Next, the report details the incentive compensation system and how this system leads to abuses by private collection agencies. It then compares the Department of Education's evaluation of its private collection agencies with complaints to the Federal Trade Commission and the Better Business Bureau. Finally, the report explains how the structure of Federal Student Aid (FSA) enables widespread violations of consumer protection laws and prevents borrowers from accessing their rights. The report concludes with recommendations for reform.

### *Key Findings*

#### *The Collection Agency Contractor System Costs Billions*

The costs of relying on private collectors are enormous for borrowers, taxpayers, and society. Department projections show that taxpayers and student loan borrowers are projected to pay over \$1 billion in commissions to private student loan debt collectors in 2014, growing to over \$2 billion by 2016.

There are extraordinary penalties for borrowers who go into default. When a borrower has a defaulted federal student loan (a loan that is more than 270 days past due), the government can seize certain income and assets from the borrower without a court order. Low-income borrowers are especially harmed because the government often seizes benefits, such as the Earned Income Tax Credit, that are aimed at promoting economic mobility. Moreover, a borrower in default is prevented from receiving further aid (including Pell grants) to return to school.

## *Government Incentives Drive Collection Agency Behavior and Harm Consumers*

Recent changes in the compensation system demonstrate the relationship between the incentives and borrower outcomes. The law clearly states that the monthly payment for loan rehabilitation (an important right for borrowers seeking to get out of default) should be based upon the borrower's circumstances. However, prior to July 2012, it was nearly impossible for borrowers to negotiate a rehabilitation payment amount that was less than a percentage of the loan balance (called balance sensitive rehabilitation). This rampant violation of consumer rights occurred in an era when the government's collection contract only paid the full commission rate if the collector-induced rehabilitation payment amounts were at least the balance sensitive amount. In July 2012, the Department amended the contracts to allow contractors to earn the full commission for arranging *either* a balance sensitive rehabilitation or one that calculated payments based on the borrower's actual income.

The data shows that the number of rehabilitations skyrocketed after the change in the incentives. The rules and regulations did not change during this period. The *only* change was the way that the collection agencies were paid. The result was more affordable and successful rehabilitations. Bottom line: money, not the law, drives collection agency behavior.

The report also discusses how the collection incentives are part of an overall structure that creates confusion about who the collection agencies are working for. In fact, by its very nature, the Department's Federal Student Aid (FSA) agency has multiple constituencies. Students are only one of these groups and are often the least powerful.

The performance based organization (PBO) structure is to blame for some of the ongoing conflicts of interest within the Department. For example, FSA is supposed to act on behalf of its customers but there is no single priority group of customers. The category includes not only students, but also financial institutions and schools. The FSA by its very nature has multiple constituencies, often with conflicting needs and goals.

## *Problems with the Collection Agency Evaluation System*

The Department rewards the agencies based on the total amount of money collected from student loan borrowers, regardless of the harm caused to student loan borrowers and regardless of legal compliance. Ironically, this same system, which lets collection agencies break the law without consequence, imposes severe consequences on borrowers when they get into trouble and fall behind on their payments.

The Department evaluates the collection agencies it contracts with on a quarterly basis using a metric called the Competitive Performance and Continuous Surveillance (CPCS) score. The Department uses the CPCS score to determine the allocation of new accounts, instilling fierce competition among contractors for hundreds of millions of dollars in commissions. The three contractors with the highest score receive additional performance compensation, which can add up to several million dollars a year for the top contractor.

This report documents the Department of Education's pattern of disregarding the experiences of student loan borrowers in collections. The Department frequently cites a low volume of complaints to support its claims of effective oversight. However, documented problems with the complaint system have led to the systematic underreporting of complaints by collection agencies and the Department.

The National Consumer Law Center (NCLC) analyzed the CPCS scores for Fiscal Year 2012 and compared them to local Better Business Bureau complaint records and complaints submitted to the Federal Trade Commission. Because of the Department of Education's inadequate system of collecting complaints, NCLC was forced to use proxies for evaluating the Department of Education's compensation and evaluation system for its private collection agencies.

NCLC found the following problems with the Department's evaluation system:

- There is no relationship between the Department's scores and the volume of complaints;
- The Department has never deducted points from a collection agency for complaints;
- The Department failed to use the performance category that incorporates borrowers' experiences; and
- The Department has given collection agency NCO Group, Inc. the highest rank among the PCAs collection agencies several times in recent years, despite NCO's legal troubles with federal and state regulators.

### *Government Regulators Asleep at the Wheel*

In 2014, separate reports by the Government Accountability Office (GAO) and the Department's Office of the Inspector General (OIG) found that Department of Education oversight of its collection agencies was woefully insufficient. These problems are consistent with the many problems that NCLC has documented and sent to Department staff over the past several years.

Specifically, OIG found that the Department's Federal Student Aid office failed to monitor borrower complaints against its collection agencies, and it neglected to take corrective action against those agencies when they did not improve. As a result of its inadequate supervision, the Federal Student Aid office failed to ensure its collection agencies abided by federal debt collection laws and the terms of their contractual agreements. Although it is primarily the Department's responsibility to ensure that its debt collection agencies follow the law, borrowers can privately enforce violations of the Higher Education Act through the Fair Debt Collections Practices Act.

### *The Department of Education on Lockdown*

Ideally, there should be a transparent process for the public to know how its tax dollars are allocated and whether government contractors are complying with the law. In fact, President Obama has committed his administration to achieving new levels of openness in government. Unfortunately, time and again, the U.S. Department of Education has

failed to live up to this promise. Instead, the Department has protected and rewarded the interests of the private debt collectors it hires to collect from borrowers who have defaulted on their federal student loans.

In preparation for this report, NCLC sent a Freedom of Information Act (FOIA) request to the Department requesting a breakdown of the CPCS scores and the amount it paid in bonuses to the collection agencies in fiscal year 2012. The Department initially denied our request, providing only blacked out (redacted) information. NCLC eventually sued the Department of Education to obtain the documents and information. NCLC's recent FOIA experience is consistent with growing secrecy at the Department. In response to an earlier FOIA request that NCLC filed in August 2012, the Department provided a heavily redacted version of its Private Collection Agency manual although this document was previously publicly available on the Department's website.

The government's use of private collection agencies is incompatible with the equal access goals of the Higher Education Act and with the goal of giving borrowers fresh starts. The government funnels enormous profits to private companies to hound borrowers. This is short-sighted policy that fails to provide a way out for borrowers struggling to recover financially. Promoting paths to success for these borrowers is ultimately less costly for taxpayers than hammering borrowers for the rest of their lives with draconian collection tools. The needs of borrowers and taxpayers should be prioritized over profit for private companies.

### *Recommendations for Reform*

- 1. Eliminate the use of private collection agencies and move toward a comprehensive and individualized counseling model.** In deciding how to work with borrowers in default, the Department should study alternatives and create pilot projects with empirical research to test these options. The goal of this model should be to match the borrower with the right program based upon his or her circumstances, not just to collect the most money for the Department.
- 2. Reform the debt collection agency evaluation system so that performance is about more than dollars collected.** The evaluation system should ensure that government contractors follow the law and act in the best interest of student loan borrowers.
- 3. Eliminate conflicts of interest by using neutral entities to administer extra-judicial collection, such as administrative wage garnishment.**
- 4. Improve transparency and provide public information about the private debt collectors' performance, including complaints and any investigations or disciplinary actions taken against private debt collectors and the cost of outsourcing to them.**
- 5. Congress and the President should improve the Department of Education's oversight of collection agencies and require the Department to make public information about how performance is tracked and the results.** The Department's Office of the Inspector General and the Government Accountability Office (along with Congress and the general public) should continue to monitor the Department's oversight.



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6. **Hold collection agencies accountable through rigorous public and private enforcement.**
  7. **Improve the complaint system so that student loan borrowers can easily file complaints about collection agencies.** The Department should follow the lead of other federal agencies such as the Consumer Financial Protection Bureau and create user-friendly complaint systems with easy to find instructions and contact information.
  8. **End the Performance Based Organization experiment and set up a system that clearly puts borrowers first.**
  9. **Expand online options so that borrowers can more easily access programs, such as rehabilitation, without needing to go through a third-party collection agency.**
  10. **The Department of Education should improve its data collection system and make the information public in order to ensure integrity of data collected and the programs it administers.**

## INTRODUCTION

Student loans are unavoidable for most college students and their families. Currently, there are more than 39 million borrowers carrying over \$1 trillion in federal student loan debt.<sup>1</sup> It is not just the level of debt that causes problems, but the level of financial distress due to unmanageable student debt.

### Overview of Federal Direct Loan Debt\*

Of the total outstanding Direct Loans, about \$1 out of every \$5 is past due.

<b>Total Direct Loans</b>	<b>\$686</b> BILLION
<b>Delinquent Direct Loans</b>	<b>\$89</b> BILLION
<b>Direct Loans in Default</b>	<b>\$38</b> BILLION

\*Source: U.S. Department of Education, Federal Student Loan Portfolio (June 2014).

Note: Numbers have been rounded. Direct Loans are student loans made by the U.S. Department of Education. The government went to 100% Direct lending in 2010.

The federal student aid programs began during the 1960s as a way to improve access to education for lower-income individuals. Yet the shocking reality is that despite the billions in government money spent on financial aid, the difference in college graduation rates between the top and bottom income groups has widened by nearly 50 percent over two decades.<sup>3</sup> The reliance on loans makes college unaffordable for many and threatens to erase the leveling effects of higher education.

As currently constructed, the student loan system has virtually no margin of error for those who do not succeed the first time around in college or who encounter problems later. Instead of creating a program to help these borrowers get back on their feet, the government has created a punitive collection system that relies almost exclusively on private collection agencies to wield the government's draconian collection tools. Instead of getting a chance for a fresh start, students in financial distress too often

end up hammered by aggressive and often abusive private debt collection agencies. This is a short-sighted policy with huge costs for borrowers and taxpayers.

The U.S. Department of Education (Department) refers every eligible defaulted debt to one of 22 collection agencies. According to industry insiders, the Department contract is "[t]he most sought after contract within this industry" because of the ever-increasing volume of debt that is extremely difficult to discharge in bankruptcy.<sup>4</sup> In fact, analysts report that "[w]ith nearly \$1.11 trillion in outstanding student loans and a slow job market, Wall Street believes higher student loan default rates are inevitable and companies that collect on this debt are a good investment."<sup>5</sup>

Despite the history of consumer abuses in the collection industry, the United States government hires collectors not only to collect money, but also to communicate with borrowers about options

*Although the U.S. government must balance the need to collect student loans with the need to assist borrowers, the current system heavily favors high pressure collection and collector profits to the detriment of financially distressed borrowers seeking the help they so desperately need.*

to address student loan debt and to help borrowers resolve their debt. There is inherent conflict in these dual responsibilities. Communicating with borrowers about options and helping them resolve their student loan debts is simply not the primary mission of collection agencies. Debt collectors are not adequately trained to understand and administer the complex borrower rights available under the Higher Education Act, and the government does not provide sufficient oversight of the debt collection activities.

Borrowers who are trying to address student debt problems end up dealing with poorly trained, profit-driven collection agencies. This is particularly harmful because if properly counseled, many of these borrowers could use the government's complex but powerful student loan debt relief options.

### *Outsourcing Collection Is Not Cheap*

The costs of relying on private collectors are enormous for borrowers, taxpayers, and society. Department projections show that taxpayers and student loan borrowers are projected to pay over \$1 billion in commissions to private student loan debt collectors in 2014, growing to over \$2 billion by 2016.<sup>6</sup>

There are extraordinary penalties for borrowers who go into default. When a borrower has a defaulted federal student loan (a loan that is more than 270 days past due), the government can seize certain income and assets from the borrower without a court order. Low-income borrowers are especially harmed because the government often seizes benefits, such as the Earned Income Tax Credit, that are aimed at promoting economic mobility.

Moreover, a borrower in default is prevented from receiving further aid (including Pell grants) to return to school. This prevents borrowers from getting a second chance if college does not work out the first time around. This is a short-sighted policy. Giving borrowers another chance is critical not only in their individual lives, but also for society. The extreme collection powers that kick in after student loan default impede economic productivity by preventing many students from returning to school, succeeding, entering the labor force, and repaying their loans.

This report focuses on the government's private debt collector program, first describing how the current system works and what it costs. Next, the report describes the incentive compensation system and show how this system leads to abuses by private collection agencies. Then, it compares the Department of Education's evaluation of its private collection agencies (PCAs) with complaints to the Federal Trade Commission and the Better Business Bureau. Finally, the report explains how the structure of Federal Student Aid enables widespread violations of consumer protection laws and prevents borrowers from accessing their rights. The report concludes with recommendations for reform.

*Private student loan debt collectors are projected to receive over \$1 billion in commissions in 2014, paid by taxpayers and student loan borrowers.*

## GOVERNMENT INCENTIVES DRIVE COLLECTION AGENCY BEHAVIOR AND HARM CONSUMERS

### Overview

Federal Student Aid (FSA) debt collection activities are centralized in the Department's Default Resolution Group. The Department only collects on loans it owns. (The Department does supervise the collection activities of guarantors from the now defunct guaranteed loan program and Perkins loan schools, but does not directly collect on those loans unless they are assigned to the Department.)

### What Is Loan Rehabilitation?

A federal student loan borrower can renew eligibility for new loans and grants and eliminate the loan default by "rehabilitating" a defaulted loan. To qualify for loan rehabilitation, the borrower must make nine monthly on-time payments during a period of ten consecutive months. Under the Higher Education Act, the borrower's monthly payment should be reasonable and affordable based upon the borrower's financial circumstances.

The Department has contracted with 22 private debt collection agencies; the current contract started in early 2009. The government's contract with private collection agencies was set to expire at the end of 2012; however, it has been extended until the next contract is finalized.

Meanwhile, in July 2013, the Department issued a solicitation for debt collection services for the next contract period.<sup>7</sup> The original accompanying request for quotations and statement of work describe the commission system that will be in effect during the next contract period. Debt collection agencies will receive:

- a 16% commission on voluntary Direct Loan payments and a 17.5% commission on voluntary Non-Direct Loan payments;
- a 16% commission on payments received as a result of Administrative Wage Garnishment (AWG) for Direct Loans and 17.5% for Non-Direct Loans;
- a projected 13%<sup>8</sup> of the loan balance when the collection agency arranges for the borrower to rehabilitate a loan;
- 2.75% of the loan balance when the collection agency arranges for the borrower to consolidate a loan; and
- \$150 for each administrative resolution completed (including processing death or disability discharges, programmatic discharges, and bankruptcy).<sup>9</sup>

This commission structure is little changed from that under the previous contract.<sup>10</sup>

Under this structure, for some programs, the Department pays the collection agency a percentage of the dollars it actually collects. This is true for any amounts collected through an administrative wage garnishment or voluntary payments. The government pays a percentage of the final payoff amount or transfer value (i.e. combined principal, interest, fees and projected collection costs) after a consolidation or rehabilitation is complete.

## The Flawed Debt Collection Commission System

The Department's 2009 contract with collection agencies provided that an agency that arranged for rehabilitation of a student loan would earn approximately 13 percent of the loan balance, but only if the borrower made a minimum monthly payment based upon the balance of the loan. For example, if the loan balance was \$20,000, the collection agency would receive the 13 percent commission only if the borrower agreed to pay \$200 a month (1 percent of the balance) to rehabilitate the loan. The agencies referred to this practice of setting a payment based on loan balance as the balance sensitive

## What Is Loan Consolidation?

Direct Loan Consolidation allows borrowers to combine federal education loans (or a single eligible loan) into one new loan. After consolidating their loans, borrowers in default get back into current repayment status. In order to consolidate their loans, defaulted borrowers must make three consecutive monthly payments, set at a "reasonable and affordable" amount, or agree to pay under a federal income-driven repayment plan. Although a collection agency gets a commission if a borrower consolidates through the agency, borrowers do not need to work with the collection agency and can complete the application on their own.

## Commission Paid to Debt Collection Agencies by Activity

Tom has a Direct Loan and owes \$10,000. The Department of Education has assigned his loan to Collection Agency XYZ. The table below shows the amount of money Collection Agency XYZ will earn for each type of debt collection activity.

### Amount of commission based upon the amount and type of payment

COLLECTION ACTIVITY	PAYMENT AMOUNT	COMMISSION EARNED
Tom makes a voluntary student loan payment	\$150	16% of Tom's payment (\$24 per \$150 payment)
Administrative Wage Garnishment	\$150	14% of the payment (\$21 per \$150 payment)
Loan Rehabilitation	9 monthly payments of \$5/month*	\$1300
Loan Consolidation	As little as \$0 if borrower selects income driven repayment	\$250
Total and Permanent Disability Loan Cancellation	N/A	\$150

\*The payment amount is calculated using the new rehabilitation formula discussed later and assuming an income of \$1000 per month. The commission is earned once the nine payments have been made. The nine payments can be spread out over a ten-month period.

repayment program. A 13 percent commission on a loan with a \$20,000 balance is substantial: \$2600.

The collection agencies had the option of arranging for a rehabilitation of the loan under which the borrower's payment obligation was based on the borrower's income rather

than on the amount of the loan. However, if the rehabilitation agreement provided for payments in an amount lower than the balance sensitive amount, the 2009 collection contract considered this to be an "Administrative Rehabilitation" and paid the collection agency a flat fee of \$150. As will be described in greater detail in the next section, this difference in payments resulted in collectors failing to offer affordable repayment plans to borrowers.

### **Definition: Balance Sensitive Repayment**

The practice of setting a monthly rehabilitation repayment amount based on a percentage of the loan balance instead of the borrower's financial circumstances.

The commission rates for balance sensitive payments were also much higher than the administrative fees

for helping borrowers resolve their problems in other ways. For example, the Department pays administrative fees if a collector helps a borrower complete an application for cancellation of the loan due to a total and permanent disability or other allowable reasons. These individuals are among the most vulnerable borrowers and it is important that they receive the benefit of loan cancellation rather than being pressured to make payments they cannot afford. Moreover, these programs are not well known and the criteria for qualifying are complex. Borrowers who qualify for these federal disability programs should receive *more* care. Yet, the government pays less for assisting these borrowers.

The commission system also creates a conflict of interest when collection agencies are used in extra-judicial functions, such as the Administrative Wage Garnishment (AWG) process. Using the AWG process, the Department can garnish a defaulted borrower's wages with only 30 days notice. The borrower is then entitled to a hearing to determine the validity of the debt or other defenses to repayment. Although private collection agencies are not allowed to conduct the actual hearings, the agencies are used for almost every other part of the process.<sup>11</sup> This includes:

- finding independent hearing officers,
- recommending that garnishment orders be issued,
- preparing the orders for review, and
- mailing the orders executed by the guarantor.<sup>12</sup>

As 16 percent to 17.5 percent of any payment received under the AWG process is paid to the collection agency, it is to the debt collector's financial advantage to ensure that borrowers are required to make as large a payment as possible.

## **Borrower Complaint: Debt Collector Gives Misinformation Regarding Disability Discharge Eligibility**

Complaint sent to the National Consumer Law Center (NCLC) and Referred to Federal Student Aid at the Department of Education

Borrower: Dominga through a legal services attorney

Submitted to the Department: June 2, 2011

“[Dominga] and her doctor had completed an application for a discharge of the student loan based on her disability but before she sent it in, she received a balance due statement from [redacted debt collection agency], [address omitted] telling her to send a balance of \$9,727.04 to them at [debt collection agency], [address omitted]. **When she contacted [debt collection agency] with her social worker... to tell them that she was applying for a disability discharge, she was apparently told that if she sent in the disability discharge, it would not be considered because she was currently in default on her loan.\*** She says that [debt collection agency] suggested that she apply for the William D. Ford Program under which she would pay \$35/mo for four months, and then she could send her discharge application to “Linda” at [debt collection agency]. She says that “Juan” at [debt collection agency] told her that if she did not do this, the default would offset the disability. Dominga and [her social worker] apparently spoke to Juan, Linda, and “Pam” all at [debt collection agency]. Linda’s number was given as 1-877-XXX-XXXX and they were also given the number 1-877-XXX-XXXX to call after 4 months of payments on the Ford Program so that they could send in the application for disability discharge.

[Debt collection agency] is now calling Dominga and [her social worker] several times a day to demand that she fill out the application for the Ford Program. Dominga is sending them a letter asking them to cease contacting her and is sending in her disability discharge application. Please let me know if you need any additional information or if there is any other action Dominga should take.”

### **Collector misinformation in bold.**

*\*Author Note: Borrowers in default are eligible for loan cancellation due to Total and Permanent Disability if they meet the disability criteria.*

## Why Incentives Matter: Lessons from Changes to the Rehabilitation Program

Debt collectors claim that the incentives do not drive the way they treat borrowers. For example, in an interview with *Bloomberg News*, Tim Galloway, senior vice president of NCO debt collection agency, said that NCO offers “all available federal programs,” regardless of commission rates. The company [NCO] always treats borrowers “with dignity and respect.”<sup>13</sup> However, despite Mr. Galloway’s and others’ protests, recent changes in the debt collection incentives for rehabilitation leave no doubt that incentives matter.

Rehabilitation is one of the two ways that a federal student loan borrower can get a loan out of default. Under the Higher Education Act, the monthly payment amount must be reasonable and affordable based on the borrower’s total financial circumstances.<sup>14</sup>

### Deposition of Windham Professionals Collection Agency Compliance Manager

Q. My question is: In what way did Windham’s policy change beginning in July 2012 as to the minimum payment it would require Mr. Love to make to get his direct student loan into rehabilitation?

A. On advisement from the Department of Education after they created a new program, we were taking consumer’s financial circumstances into consideration for an option for repayment.

Q. And prior to July 2012 Windham did not consider the consumer’s financial circumstances in making a minimum payment requirement, correct?

...

A. To my knowledge, correct.

Despite the fact that the statute and regulations clearly state that the monthly payment should be based upon the borrower’s circumstances, prior to July 2012 it was nearly impossible for borrowers to negotiate a rehabilitation plan that was less than the balance sensitive repayment amount. In fact, in a deposition, Windham Professionals Compliance Manager James Null stated that prior to July 2012, Windham Professionals did not take the borrower’s financial circumstances into consideration when determining a borrower’s monthly rehabilitation payment (see sidebar).<sup>15</sup>

Joshua Kehoe, a former debt collector with Pioneer Credit (owned by SLM, Inc., better known as Sallie Mae) told *Bloomberg News*, that it would be “a cold day in Hades” before collectors would tell borrowers about options with lower payments because “rehab cash was king.”<sup>16</sup> The

company pushed collectors to sign borrowers up for the (balance sensitive) rehabilitation plans, which often required payments equal to 1.25 percent of their loan amount monthly, he said.

A review of complaints submitted to NCLC’s Student Loan Borrower Assistance Project and a survey of emails sent to a national listserv of legal-aid attorneys working on student loan issues found that prior to July 2012, the problem of requiring a minimum payment based upon the loan balance was pervasive. (See examples of student borrower complaints in this section).



## Comparison of a Borrower's Monthly Rehabilitation Payment Under the Balance Sensitive Repayment Formula and the New Formula Implemented July 1, 2012

*Under the old system, prior to July 2012, Brenda's payment was based upon her loan balance, for example:*

If Brenda's balance is:	Her monthly payment will be:
\$5000	\$64.50
\$10,000	\$114.00
\$20,000	\$200
\$30,000	\$261
\$50,000	\$380

*After 2012, Brenda's payment is based upon her income, for example:*

If Brenda's income is:	Her estimated monthly payment will be:*
\$10,000	\$5
\$25,000	\$94
\$50,000	\$406
\$75,000	\$719

\*Assuming family size of 1.

In the winter and spring of 2012, the Department held three meetings with negotiators from industry, government, and consumer groups to draft new regulations related to rehabilitation. At those sessions, negotiators drafted rules that would automatically base a borrower's monthly rehabilitation payment on the borrower's financial circumstances.<sup>17</sup> The final regulations, which went into effect on July 1, 2014, require collection agencies to base the monthly payment on the income-based repayment formula (15 percent of the amount by which the borrower's adjusted gross income exceeds 150 percent of the federal poverty level). If a borrower objects to that amount, the collection agency can base the payment on the borrower's income and actual expenses. Importantly, the regulations prohibit collection agencies from basing the monthly payment amount on the balance.<sup>18</sup>

After the Department announced the revised rehabilitation regulations, but before they went into effect in July 2014, it decided to change its contracts with collectors. It amended the contracts by reducing the commission rate for rehabilitations from approximately 13 percent to 11 percent but allowing contractors to earn the full 11 percent commission for arranging *either* a balance sensitive rehabilitation or one that established reasonable and affordable payments based on the borrower's actual income. The revised contract did not eliminate the balance sensitive repayment program or prohibit collectors from offering it to borrowers as an option. However, it did allow collectors to get the full commission amount, instead of just \$150, if the borrower's monthly payment was calculated using the income-based repayment formula.<sup>19</sup>

### **Borrower Complaint: Debt Collector Gives Misinformation Regarding Rehabilitation Payments and Consolidated Loans**

This complaint was sent to NCLC and Referred to Federal Student Aid at the Department of Education

Borrower: Christy

Submitted to the Department: Feb. 4, 2012

"My loans went into default. **I have been told by collection agencies that rehab payment amounts are based on the loan balance, not on my income.\*** Is this true? The minimum payment they will accept is 1,800.00 per month. I don't even take home that much. Is there anything I can do?

The loan was originally consolidated through William D Ford [Federal Direct Loan Program].

The current collection agency is [redacted debt collection agency]1 661 XXX XXXX.

I have been told 3 times that when I consolidated my loan (way back when) that I committed financial suicide. **I was told that there is no way that payments can be made based on my income.\*\***

If I could have rehabed this loan making regular payments based on my income, I would have done so many years ago. Now the loan went from 70,000 to 170,000."

#### **Collector misinformation in bold.**

*\*Author Note: Rehabilitation payments are supposed to be reasonable and affordable based upon the borrower's financial circumstances. However, up until July 2012, collection agencies were paid the standard commission rate only if the rehabilitation payment was a percentage of the loan balance.*

*\*\*Author Note: Consolidated loans are, in fact, eligible for the Income-Based Repayment plan.*

## **Borrower Complaint: Debt Collector Gives Misinformation Regarding Rehabilitation Payments and Income-Based Payment Plan Eligibility**

Complaint sent to NCLC and Referred to Federal Student Aid at the Department of Education

Borrower: Tony, submitted by a legal-aid attorney  
Submitted to the Department: June 8, 2011

**“[The Department of Education representative] said that the collection agency’s interpretation of DOE guidelines was correct. That any amount less than the balance sensitive repayment\* amount would not rehabilitate my client’s loan.** He further stated that my client could make a reasonable and affordable payment and that this would prevent any offsets or garnishments, but it would not rehabilitate his loan. Furthermore, he said that the amount that is reasonable and affordable is determined between the collection agency and DOE. Finally, he told me that it wouldn’t matter because if my client were to rehabilitate his loan, that my client would not be able to afford the payments after rehabilitation because the only repayment option would be the standard payment. **He said that [income-based repayment] would not be an option.\*\*”**

### **Collector misinformation in bold.**

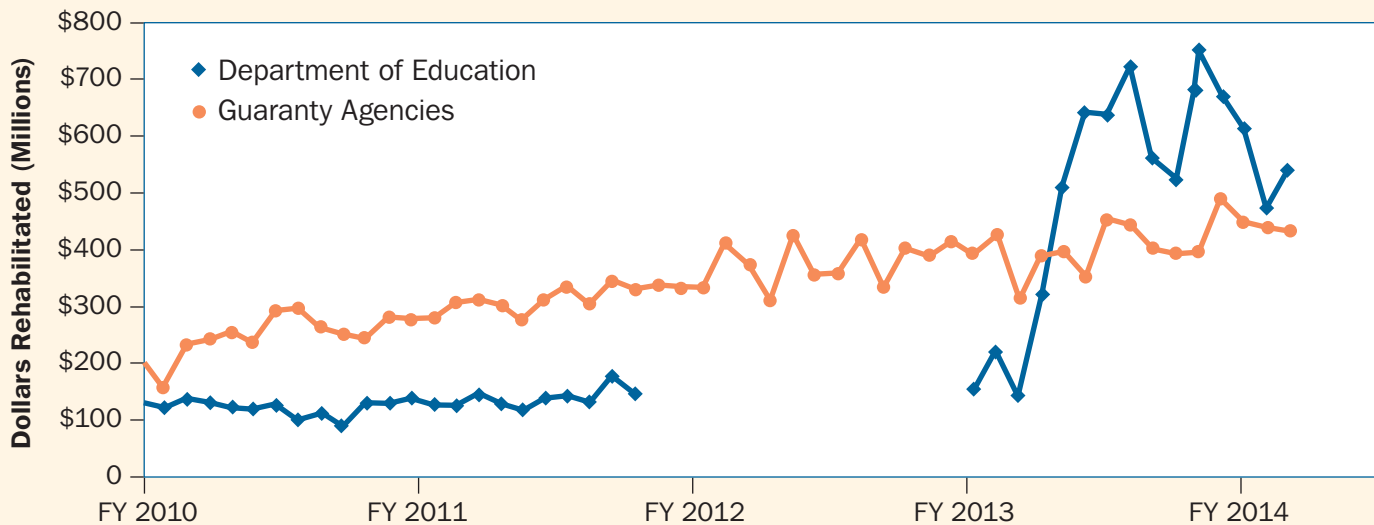
*\*Author Note: Rehabilitation payments are supposed to be reasonable and affordable based upon the borrower’s financial circumstances. However, up until July 2012, collection agencies were paid the standard commission rate only if the rehabilitation payment was a percentage of the loan balance.*

*\*\*Author Note: Rehabilitated loans are, in fact, eligible for the Income-Based Repayment plan.*

As the chart on the next page indicates, after the change in the commission system, there was a dramatic increase in the number of rehabilitations that the private collection agencies arranged for the loans they were collecting for the Department. By contrast, the number of rehabilitated loans held by guaranty agencies—whose commission system was not changed—did not increase, but remained consistent with prior years. (The revised commission system applies to guaranteed loans as of July 1, 2014). These facts strongly suggest that the change in the commission system caused the increase in the number of rehabilitations the private collection agencies arranged. Even though they were always required to offer rehabilitations with reasonable and affordable payments, they began doing so in volume *only* when the contract was changed so that they earned \$1300 rather than \$150 for these rehabilitations.

## VOLUME OF STUDENT LOAN REHABILITATIONS OVER TIME BY LOAN HOLDER

Prior to 2012, rehabilitations by both guaranty agencies and the Department of Education's debt collectors remained fairly consistent. However, after the Department policy change in July 2012, which amended the contract to pay debt collectors the full commission rate for rehabilitation payments based upon the borrower's income instead of only paying for rehabilitation payments based upon the loan balance, Department rehabilitations skyrocketed. The guaranty agencies had no such policy change and no such spike in rehabilitations.



Source: U.S. Department of Education.

Note: Department of Education data was not available for September 2011 to October 2012.

One industry analyst said of the new commission system, "It frees collection agencies up to work with lower income borrowers on a plan they can afford to bring the account current and still receive an 11 percent commission rather than a \$150 fee."<sup>20</sup>

The rules and regulations did not change during this period. What did change was the way that the collection agencies were paid. The result? More affordable and successful rehabilitations for student loan borrowers.

**The bottom line: money, not the law, drives collection agency behavior.**

## FEDERAL STUDENT AID: CONFLICTS OF INTEREST AND COMPETING CONSTITUENCIES

The collection incentives are part of an overall structure that creates confusion about who the collection agencies work for. In fact, by its very nature, the Department's Federal Student Aid (FSA) agency has multiple constituencies. Students are only one of these groups and are often the least powerful.

FSA is the operating arm of the Department of Education's financial aid program. FSA is also the federal government's first performance-based organization (PBO). The change to PBO status occurred in 1998. In large part, Congress selected FSA as the first performance-based organization because of problems with prior service and ballooning budgets. In 1990, for example, the U.S. Government Accountability Office (GAO) found the federal student aid programs at high risk for fraud, waste, abuse, and mismanagement. Student loan default rates were at an all-time high as well. In 2005, GAO removed the federal student aid programs from the High Risk List.

PBOs are supposed to run more like businesses, with clear and measurable outcomes and goals. In exchange for focusing on particular goals, a PBO agency is given greater flexibility in how to achieve these goals.

The structure of the PBO is to blame for some of the ongoing conflicts of interest within the Department. For example, FSA is supposed to act on behalf of its customers, but there is no single priority group of customers. The category includes not only students, but also financial institutions and schools. The FSA by its very nature has multiple constituencies, often with conflicting needs and goals.

In addition to conflicts between constituencies, the FSA's stated goals of increasing customer satisfaction, increasing employee satisfaction, and reducing unit costs ignore key areas, such as consumer protection.<sup>21</sup> Focusing on consumer protection might enhance the first goal of increasing customer satisfaction, although this depends on how carefully "satisfaction" is measured. For example, customers may be satisfied with an outcome even if it is not the optimal outcome if they do not know of other options. In contrast, focusing on consumer protection is unlikely to improve employee satisfaction or reduce costs since counseling and working individually with borrowers generally takes more employee time and cost more. In a 2002 report, the Congressional Research Service mentions the tension between cost reduction and ensuring that the financial needs of low-income students are addressed.<sup>22</sup> The commission structure that rewarded collection agencies for giving borrowers less favorable rehabilitation plans, and the Department's failure, discussed in the next section, to give mistreatment of borrowers any weight in the collection agency rating system, are all consistent with the Department's failure to resolve the conflicts in the FSA's goals.

## EVALUATING THE PRIVATE COLLECTION AGENCIES

The Department evaluates its contracting collection agencies quarterly using a metric called the Competitive Performance and Continuous Surveillance (CPCS) score. The Department uses the CPCS score to determine the allocation of new accounts, instilling fierce competition among contractors for the hundreds of millions of dollars in commissions.<sup>23</sup> The three contractors with the highest score receive a bonus, which can exceed a million dollars for the top contractor.<sup>24</sup>

The CPCS is calculated by combining the score in five categories (see table on page 21). The percentage of dollars collected on federal student loan accounts determines the majority of a collection agency's CPCS score, with a maximum of 70 possible points. The second metric is the Account Servicing Percentage, which calculates the percent of federal student aid accounts awarded to the collection agency that have activity as a result of the collection agency's efforts, either through litigation, an administrative resolution, or actual payments. The top performer for this metric receives 20 points. Finally, collection agencies may earn up to 10 points for their Administrative Resolution Percentage, which tabulates how many federal student aid accounts were referred back to the Department for a non-cash administrative resolution (e.g. discharge of the loan because the borrower is disabled or has died).

According to the contract, the Department can add or subtract points from a contractor's CPCS score based on two additional categories: small business subcontracting and service quality. The Department does not specify the discretionary range of points that will be deducted or added based on service quality performance in its Request for Quotes issued to potential contractors.<sup>25</sup>

Service quality is the only performance category that incorporates borrower experience. Yet the Department does not specifically include borrower complaints about collection agencies – a highly relevant indication of problems with service quality — as part of its definition of this metric. But the gaps in the definition of the metric turn out to be immaterial, because an audit by the Department's Inspector General revealed that the Department *does not actually use this category in calculating the performance scores*.<sup>26</sup> Thus, even though its contracts with collection agencies allow the Department to use borrower experience in the all-important ratings, it ignores this metric.

Moreover, in the contract, if the Department receives a complaint about a collection agency that it considers a concern, the Department is supposed to instruct the contractor to stop the activity. If the Department receives another complaint that resembles the initial complaint, the contractor is supposed to receive a two point reduction in its next quarterly CPCS score.<sup>27</sup> However, according to the Inspector General audit, the Department has “never deducted points from a PCA's CPCS score for complaints that a PCA continued to engage in activity that FSA had notified the PCA to cease.”<sup>28</sup>

The National Consumer Law Center sent a Freedom of Information Act (FOIA) request to the Department of Education in March 2013 requesting the scores (total and by category), the data used to generate the scores, and the resulting bonuses for fiscal year 2012. As will be discussed in greater detail, NCLC had to sue the Department to obtain this information. Following this litigation, the Department released documents showing the breakdown of the scores for each collection agency in FY 2012 (see Appendix A).

*Service quality is the only performance category that incorporates borrower experience. Yet an audit by the Department's Inspector General revealed that the Department does not actually use this category in calculating the performance scores.*

...

*The Department has “never deducted points from a PCA's CPCS score for complaints that a PCA continued to engage in activity that FSA had notified the PCA to cease.”*

## Competitive Performance and Continuous Surveillance (CPCS) Scoring Criteria

The Department of Education’s evaluation rubric for ranking and allocating accounts.

CATEGORY	DEFINITION	HIGHEST POSSIBLE SCORE IN CATEGORY
Dollars Collected Percentage	Gross amount of dollars collected divided by the average balance of the accounts placed with the contractor for the past four quarters	70
Account Servicing Percentage	The sum of the total accounts approved for administrative resolution and the payments received on non-administrative resolution accounts divided by the total inventory of contractor accounts	20
Administrative Resolution Percentage	The percentage of accounts resulting in a non-cash resolution, including discharges for disability, death, etc.	10
Small Business Subcontracting <sup>29</sup>	The extent to which a collection agency subcontracts work out to small businesses	5
Service Quality	A variety of performance factors, including accuracy, bounced checks, and customer satisfaction.	Undefined and unused

### *Education Department Fails to Consider Complaints in CPCS Scores*

The Department frequently cites a low volume of complaints to support its claims of effective oversight. This is a self-fulfilling prophecy. FSA uses the low level of complaints as an excuse not to count them and then makes it nearly impossible for consumers to lodge complaints which FSA chooses not to consider.

According to the 2014 Inspector General report, “[b]ecause FSA’s Business Operations and Default Division senior managers consider the number of complaints to be immaterial, they place insufficient emphasis on the importance of identifying, tracking, and resolving borrower complaints.”<sup>30</sup> There are numerous factors that contribute

### **Bonus Payment Plan Unveiled** (See Appendix A for bonuses for FY 2012)

The Request for Quotes (RFQ) issued by the Department of Education in 2008 outlines the bonus payment plan. The bonus payment is a percentage of dollars collected by the contractor. The first place contractor receives a 5% bonus on the dollars collected for the Department. In September of 2011, NCO Group, the contractor with the highest CPCS score, collected \$27,391,559. NCO’s bonus payment, according to the 2008 RFQ, should equal \$1,369,577.95.

to the underestimation of complaints. As discussed in a series of reports NCLC released in 2012 and 2013, up until recently the Department did not have any way for borrowers to report complaints directly to it.<sup>31</sup> Borrowers can now complain using the Department of Education website, [myeddebt.com](http://myeddebt.com). However, borrowers must create an account and log in to submit a complaint, and only borrowers with defaulted loans can access this page. There are a couple of other entities capable of taking complaints about the Department's collection agencies; however, there is nothing directing borrowers to submit complaints to these entities.

The audit by the Department's Inspector General shows that the problems with the Department's collection of complaints goes even deeper. The audit identified five problems that led to the underreporting of the complaints that it did receive.

1. The Department did not ensure that all complaint-receiving entities used a consistent definition of a complaint against a collection agency;
2. The Complaint Tracking System (CTS) database and process for entering and analyzing data were flawed;
3. The Department did not ensure timely submission of complaints by collection agencies;
4. The Department did not ensure that collection agencies took corrective action in response to complaints filed against them and their collectors; and
5. The Department did not receive all borrower complaints against the collection agencies.<sup>32</sup>

*"[B]ecause FSA's Business Operations and Default Division senior managers consider the number of complaints to be immaterial, they place insufficient emphasis on the importance of identifying, tracking, and resolving borrower complaints."*

Given the defects in the Department's complaint system, it cannot be considered a reliable measure of borrower complaints. As a proxy for complaints filed with the Department of Education, the NCLC reviewed local Better Business Bureau (BBB) complaint records and complaints submitted to the Federal Trade Commission (FTC) regarding the 22 collection agencies that contract with the Department of Education. How many of these complaints are based upon student loan accounts rather than other type of debts is not tracked and not reported, though that is likely information the Department could find out. Furthermore, even if none of those complaints are specifically related to debts owned by the federal government, they represent the experiences of debtors working with companies the federal government chooses to hire.

According to the FTC, in fiscal years 2011 and 2012, consumers filed almost 10,000 complaints against the 22 companies that contract with the Department of Education.<sup>33</sup> Between March 2011 and March 2012, the BBB received 1,430 complaints against the 22 collection agencies.<sup>34</sup> BBB records likely underestimate the true numbers of complaints because, among other reasons, borrowers must lodge complaints with the local BBB where the collection agency is located rather than the BBB in the borrower's location.



Comparing the Department's CPCS scores with these other sources of data demonstrates that there is no discernible correlation between the Department's scores and borrowers' complaints. As shown by the charts on p. 24, there is no overall difference between the volume of complaints received by high ranking collection agencies and low ranking ones. NCO Group, Inc., for example, has the greatest number of complaints, and yet is one of the highest ranked collectors. A comparison of CPCS score and the amount of money collected, however, shows a nearly perfect correlation.

During fiscal year 2012, the Department of Education awarded bonuses to 12 collection agencies (see Appendix A). The bonus amounts are based upon the quarterly CPCS scores. As with the CPCS score, there is no overall difference in complaint volume between collection agencies with large bonuses and those with smaller ones. Pioneer Credit, for example, has the fourth largest number of complaints of these 12 collection agencies, and yet it received the largest bonus of any collector by more than nearly \$2.5 million.

The CPCS scores do not account for complaints, and they also do not take into account actions taken by other federal regulatory agencies. In July 2013, the FTC settled charges against Expert Global Solutions and its subsidiaries for a civil penalty of \$3.2 million.<sup>35</sup> One of these subsidiaries is NCO Group. This was the largest settlement the FTC has ever reached against a third-party debt collector. According to the complaint filed by the FTC, Expert Global Solutions and its subsidiaries, including NCO, violated the law by:

- Calling consumers multiple times per day;
- Calling even after being asked to stop;
- Calling early in the morning or late at night;
- Calling consumers' workplaces despite knowing that the employers prohibited such calls;
- Leaving phone messages that disclosed the debtor's name, and the existence of the debt, to third parties; and
- Continuing collection efforts without verifying the debt, even after consumers said they did not owe it.<sup>36</sup>

Despite these known abuses, NCO is one of the highest ranked PCAs employed by the Department of Education. While the data obtained from the FTC does not specify the type of debt that is being collected, it seems likely that some of the complaints are related to federal student loans. It defies logic to assume that a company that routinely breaks the law would only chose to break the law on some contracts and not others.

This latest FTC action is not the only trouble NCO has had with regulators. In February 2012, NCO entered into a settlement with 19 state attorney general offices for up to \$1.5 million to resolve "concerns" about its debt collection practices. As part of the settlement, NCO was required to set aside \$950,000, or \$50,000 for each of the 19 participating states, for consumers who wrongly paid money to NCO.

*In FY 2012, of 12 private collection agencies hired by the Department of Education, Pioneer Credit had the fourth largest number of complaints and received the largest bonus by more than \$2.5 million.*

### Relationship between Performance Score and the Dollar Amount Collected by Department of Education Debt Collectors (Small Businesses Excluded)

There appears to be a strong correlation between the overall evaluation score given by the Department of Education and the amount of money a collection agency is able to collect. (See Appendix A for details.)



Source: U.S. Department of Education (NCLC Freedom of Information Act Request).

### Relationship between Performance Score and the Number of Complaints for Department of Education Debt Collectors (Small Businesses Excluded)

There is no discernible relationship between the number of complaints about a collection agency and the overall evaluation score given by the Department of Education. (See Appendices A and B for details.)



Source: Complaints: Federal Trade Commission (2012); Better Business Bureau Complaints (Mar 17, 2011–Mar 16, 2012). Scores: U.S. Department of Education (NCLC Freedom of Information Act Request). One collection agency, FMS Investment Corp., was omitted due to missing complaint data.

In December 2008, NCO entered into a \$700,000 settlement with the Texas Attorney General (AG) regarding allegations that the company unlawfully made harassing and threatening phone calls to purported debtors, among other violations.<sup>37</sup>

And in 2004, NCO again had the dubious distinction of reaching the highest settlement of its kind with the FTC for alleged violations of the Fair Credit Reporting Act (FCRA). In that case, NCO agreed to pay \$1.5 million to settle FTC charges that it violated the FCRA by reporting inaccurate information about consumer accounts to credit bureaus.<sup>38</sup>

Even if none of the consumer complaints to the FTC or the state AGs were related to government held student loans, the Department of Education should not reward companies that have a proven track record of violating consumer protection laws with lucrative federal contracts. Yet, that is exactly what the Department of Education has done. Despite its legal troubles, the Department has given NCO the highest rank among the PCAs several times in recent years.<sup>39</sup> The legal troubles also do not appear to be hindering NCO's chances of getting a new contract from the Department. NCO has advanced to the second round of the procurement process for the Department's next contract period for private collection agencies.<sup>40</sup>

*The Department of Education should not reward companies that have a proven track record of violating consumer protection laws with lucrative federal contracts.*

### *Lack of Oversight: Debt Collectors Run Free*

A comparison of complaints and rank is not the only evidence to show that the Department of Education is prioritizing collection over protecting borrowers' rights. In fact, in 2014, both the U.S. Government Accountability Office (GAO) and the Department's Office of the Inspector General found that the Department's oversight of its collection agencies was woefully insufficient. In its testimony to Congress, the GAO stated that the

## **Legal Troubles for The Department of Education's Top Ranked Debt Collector: NCO Group, Inc.**

**July 2013** FTC obtains a civil penalty of \$3.2 million from NCO and its affiliated companies for illegal debt collection calls

**February 2012** NCO enters into a settlement with 19 state attorney general offices for up to \$1.5 million to resolve "concerns" about its debt collection practices

**December 2008** NCO enters into a \$700,000 settlement with the Texas Attorney General regarding allegations that the company unlawfully made harassing and threatening phone calls to purported debtors, among other violations

**2004** FTC obtains a \$1.5 million settlement from NCO for violations of the Fair Credit Reporting Act

Department's oversight provides "little assurance that borrowers are provided accurate information ...."<sup>41</sup> Although it is primarily the Department's responsibility to ensure that its debt collection agencies follow the law, borrowers can privately enforce violations of the Higher Education Act through the Fair Debt Collections Practices Act.

Specifically, the GAO found that the Department of Education had documented instances of collection agency abuses yet failed to ensure that those collection agencies took corrective actions. The GAO report cited the following examples of documented collection agency abuses:

- Failing to explain rehabilitation provisions such as the one-time opportunity to rehabilitate a loan, that payments must be made within 20 days of the due date to be considered on time, or options for obtaining a reasonable and affordable payment;
- Continuing to push loan rehabilitation after the borrower said he was unemployed and was unable to make payments; and
- Providing false or misleading information, such as incorrectly telling borrowers that a down payment or debit card was required to rehabilitate a loan.<sup>42</sup>

These problems are consistent with the many problems that NCLC has documented and sent to Department staff over the past several years. The GAO concluded that, while the Department provided feedback on the results of the calls it reviewed from each collection agency, it failed to take corrective actions and did "not systematically analyze results over time or across collection agencies to inform its oversight activities."<sup>43</sup>

In July 2014, the Department's Office of Inspector General found that the Federal Student Aid office failed to monitor borrower complaints against its collection agencies, and it neglected to take action against those agencies when they did not improve.<sup>44</sup> Most troubling, the Office of Inspector General reached the following conclusion:

*We also found that FSA did not effectively ensure that the PCAs are abiding by the Federal debt collection laws and the related terms of their contractual agreements with FSA. The contracting officer's representative did not monitor, review, or evaluate the monthly PCA deliverables. Specifically, the contracting officer's representative did not evaluate the PCAs' monthly quality control reports, which contain information about the PCAs' internal monitoring of their compliance*

*with Federal and State debt collection laws, or the PCAs' management/fiscal reports, which contain borrower complaint information. Nor did the contracting officer's representative prepare and submit the required annual evaluation of the PCAs' performance. In addition, during the audit period, FSA reduced the number of phone calls it monitored between the PCAs and borrowers for adherence to Federal debt collection laws. FSA monitored fewer phone calls in part because of the time it takes to review calls.*<sup>45</sup>

*FSA did not effectively ensure that the PCAs are abiding by the Federal debt collection laws and the related terms of their contractual agreements.*

*The contracting officer's representative did not evaluate the PCAs' monthly quality control reports.*

And, in May 2013, the Department's Inspector General issued a final alert memorandum informing the Department of concerns that Federal Student Aid (FSA) paid estimated commissions and bonuses to private collection agencies based on revised methodologies and without reviewing supporting documentation. FSA was unable to calculate the actual commissions earned due to problems with in-house systems and therefore relied on self-reported estimates during FY 2012. The revised methods may have resulted in overpayments or underpayments to particular collection agencies.<sup>46</sup>

The GAO and Office of Inspector General reports demonstrate that the Department of Education's private collection agencies lack adequate supervision and operate as if they are beyond reproach. The Department rewards the agencies based on the total amount of money collected from student loan borrowers, regardless of the harm caused to student loan borrowers and regardless of legal compliance. Ironically, this same system, which lets collection agencies break the law without consequence, imposes severe consequences on borrowers when they get into trouble and fall behind on their payments.

*During the audit period, FSA reduced the number of phone calls it monitored between the PCAs and borrowers for adherence to Federal debt collection laws.*

## THE DEPARTMENT OF EDUCATION ON LOCKDOWN

Because of the Department of Education's inadequate system of collecting complaints, the National Consumer Law Center (NCLC) was forced to use proxies, such as BBB and FTC complaints (see Appendix B), for evaluating the Department's compensation and evaluation system for its private collection agencies. In preparation for this report, NCLC sent a Freedom of Information Act (FOIA) request to the Department (see Appendix C) requesting a breakdown of the CPCS scores and the amount it paid in bonuses to the collection agencies in fiscal year 2012.<sup>47</sup> A memorandum from the Inspector General indicates that the Department paid \$8.3 million dollars in FY 2012, but does not break down this aggregate figure by collector.<sup>48</sup>

In response to NCLC's FOIA request, the Department sent 17 pages that were completely redacted, and 8 pages with all but the debt collectors' names redacted (see Appendix D). It claimed that this information did not need to be disclosed pursuant to an exception for records or portions of records related to trade secrets and commercial or financial information.<sup>49</sup> The Department further indicated that it had no records relating to the amounts of bonuses paid to the individual collection agencies.<sup>50</sup> NCLC sued the Department of Education to obtain the documents and information the Department refused to release. The documents NCLC eventually obtained from the Department are included in Appendix A. Interestingly, some of the information contained in these documents is inconsistent with earlier disclosures of data from the same time period (see Appendix E).<sup>51</sup> The Department has not yet explained this discrepancy.

There should be a transparent process for the public to know how its tax dollars are being allocated and whether government contractors are complying with the law. In fact, President Obama has committed his administration to achieving new levels of openness in government.<sup>52</sup> Unfortunately, time and again, the U.S. Department of Education has failed to live up to this promise, and instead has protected the interests of the private debt collectors it hires to collect from borrowers who have defaulted on their federal student loans.

In response to an earlier FOIA request that NCLC filed in August 2012, the Department provided a heavily redacted version of its Private Collection Agency manual, even though this document used to be publicly available on the Department's website. The Department claims that it is allowed to redact the document because it is a law enforcement agency and revealing this information would allow borrowers to circumvent the law.<sup>53</sup>

It is unclear on what grounds the Department is a law enforcement agency. Regardless, some of the Department's redactions seem to be less about preventing borrowers from circumventing the law and more about saving face. For example, the Department redacted every mention of its balance sensitive repayment formula, as discussed previously. This program has caused the Department much embarrassment in the press and is illegal under the Department's new regulations that took effect in July 2014 (and was arguably illegal under existing law as well).<sup>54</sup>

The Department removed the manual from its website in June 2010. Department officials claim that they took the handbook down because they were concerned that government collection efforts could be compromised if borrowers learned of the options available to them for settling their debts.

However, the handbook provided information on much more than just settlement options. For example, it also included guidance about the incentives the Department provides collection companies through its complex commission system. For years, NCLC attorneys have written about how this commission structure works to benefit collectors, rather than borrowers, and in many cases encourages collectors to violate the Higher Education Act.

This is information that the public has a right to know. The private collection agencies have been contracted to collect, on the federal government's behalf, over \$56 billion of defaulted federal student loans from financially distressed borrowers.<sup>55</sup> They are paid by taxpayers who expect the contractors to uphold the law. The public should know not just about the amount the private agencies collect, but how they collect, and how much they are paid in commissions and bonuses.

## CONCLUSION

The government's use of private collection agencies is incompatible with the equal access goals of the Higher Education Act and with the goal of giving borrowers fresh starts. The government funnels enormous profits to private companies to hound borrowers. This is short-sighted policy that fails to provide a way out for borrowers struggling to recover financially. Promoting paths to success for these borrowers is ultimately less costly than hammering them for the rest of their lives with draconian collection tools. The needs of borrowers and taxpayers should be prioritized over profit for private companies.

## RECOMMENDATIONS FOR REFORM

1. **Eliminate the use of private collection agencies and move toward a comprehensive and individualized counseling model.** In deciding how to work with borrowers in default, the Department should study alternatives and create pilot projects with empirical research to test these options. The goal of this model should be to match the borrower with the right program based upon his or her circumstances, not just to collect the most money for the Department.

Among the alternatives, the Department should explore some combination of the following options:

- **Replace private collection agencies with in-house government collection by trained staff at the Department of Education or another federal agency.**
  - **Limit use of private contractors, and change the commission structure to incentivize counseling over collection.** The system should reward successful outcomes, not just dollars collected. For example, this could also include rewarding contractors based upon numbers of borrowers who are current on payments.
  - **Contract with nonprofit organizations to help borrowers navigate the complicated options for borrowers in default.**
2. **Reform the debt collection agency evaluation system so that performance is about more than dollars collected.** The evaluation system should ensure that government contractors follow the law and act in the best interest of student loan borrowers.
  3. **Eliminate conflicts of interest by using neutral entities to administer extra-judicial collection, such as administrative wage garnishment.**
  4. **Improve transparency and provide public information about the private debt collectors' performance, including complaints and any investigations or disciplinary actions taken against private debt collectors, and the cost of outsourcing to them.**
  5. **Congress and the President should improve the Department of Education's oversight of collection agencies and require the Department to make public information about how performance is tracked and the results.** The Department's Office of the Inspector General and the Government Accountability Office (along with Congress and the general public) should continue to monitor the Department's oversight.

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6. **Hold collection agencies accountable through rigorous public and private enforcement.**
  7. **Improve the complaint system so that student loan borrowers can easily file complaints about collection agencies.** The Department should follow the lead of other federal agencies and created user-friendly complaint systems with easy to find instructions and contact information.
  8. **End the Performance Based Organization experiment and set up a system that clearly puts borrowers first.**
  9. **Expand online options so that borrowers can more easily access programs, such as rehabilitation, without needing to go through a third-party collection agency.**
  10. **The Department of Education should improve its data collection system and make the information public in order to ensure integrity of data collected and the programs it administers.**



## ENDNOTES

1. Rohit Chopra, Consumer Financial Protection Bureau, “A Closer Look at the Trillion” (Aug. 5, 2013); “Explainer: Changes to Federal Student Loan Interest Rates” (June 21, 2013).
2. U.S. Dep’t of Educ., Federal Student Loan Portfolio (June 2014), available at <https://studentaid.ed.gov/about/data-center/student/portfolio> (last visited Aug. 12, 2014).
3. Tami Luhby, “College Graduation Rates: Income Really Matters” *CNN.com Money* (Nov. 28, 2011), available at [http://money.cnn.com/2011/11/21/news/economy/income\\_college/](http://money.cnn.com/2011/11/21/news/economy/income_college/).
4. Mark Russell, “Student Loans: The ARM Industry’s New Oil Well?,” *insideARM.com* (Oct. 20, 2011), available at <http://www.insidearm.com/obs-in-focus/student-loans-the-arm-industrys-new-oil-well/>.
5. Julie VerHage, “Wall Street Sees Big Money in Student-Loan Defaults,” *Fox Business News* (June 19, 2014), available at <http://www.foxbusiness.com/economy-policy/2014/06/19/wall-street-sees-big-money-in-student-loan-defaults/>.
6. Presentation of Dwight Vigna, U.S. Education Department, 2013 Knowledge Symposium (Nov. 2013).
7. U.S. Dep’t of Educ., Combined Synopsis/Solicitation, Default Collection Services, Solicitation Number: ED-FSA-13-R-0010 (July 3, 2013), available at [https://www.fbo.gov/index?s=opportunity&mode=form&id=ec280c4491480ecb084d663a60c9bdc7&tab=core&\\_cview=1](https://www.fbo.gov/index?s=opportunity&mode=form&id=ec280c4491480ecb084d663a60c9bdc7&tab=core&_cview=1).
8. Michael Tarkan, Compass Point Research & Trading, LLC, Education Services: ED Collection Contract Solicitation Released (July 5, 2013).
9. U.S. Dep’t of Educ., Combined Synopsis/Solicitation, Default Collection Services, Solicitation Number: ED-FSA-13-R-0010 (July 3, 2013), available at [https://www.fbo.gov/index?s=opportunity&mode=form&id=ec280c4491480ecb084d663a60c9bdc7&tab=core&\\_cview=1](https://www.fbo.gov/index?s=opportunity&mode=form&id=ec280c4491480ecb084d663a60c9bdc7&tab=core&_cview=1).
10. In July 2014, the Dep’t amended its solicitation to remove the commission rates for each category. *See id.* at Amendment 10.
11. 34 C.F.R. § 682.410(b)(9)(i)(I).
12. 34 C.F.R. § 682.410(b)(9)(i)(T)(1).
13. John Hechinger, “Obama Cuts Student-Debt Collector Commissions to Aid Borrowers,” *Bloomberg News*, (Mar. 19, 2013), available at <http://www.bloomberg.com/news/2013-03-19/obama-cuts-student-debt-collector-commissions-to-aid-borrowers.html>.
14. 20 U.S.C. § 1078-6(a)(1)(B).
15. Deposition of James Null, *Love v. Windham Prof.*, No. 1:13-CV-1649 (E.D.N.Y. June 28, 2013) at 46:12-17 (on file with the National Consumer Law Center).
16. John Hechinger, “Obama Relies on Debt Collectors Profiting From Student Loan Woe,” *Bloomberg News* (Mar. 26, 2012), available at <http://www.bloomberg.com/news/2012-03-26/obama-relies-on-debt-collectors-profiting-from-student-loan-woe.html>.
17. 78 Fed. Reg. 45618 (July 29, 2013).
18. 34 C.F.R. § 685.211(f).
19. U.S. Dep’t of Educ., PCA Manual, 2009 ed. rev. July 2012 at 96-98.
20. Patrick Lunsford, “Dept. of Education Slashes Commissions for Private Debt Collection Contractors.” *insideARM.com* (Mar. 19, 2013), available at <http://www.insidearm.com/daily/debt-collection-news/debt-collection/dept-of-education-slashes-commissions-for-private-debt-collection-contractors/>.
21. U.S. Dep’t of Educ., Fed. Student Aid, *Federal Student Aid Annual Report—FY 2013* (Dec. 11, 2013) pg. 52.

22. Congressional Research Service, *The Office of Federal Student Aid: The Federal Governments First Performance-Based Organization* (Report RL32098) (Oct. 2003) (available through WikiLeaks Document Release, <http://crs.wikileaks-press.org/RL32098.pdf>).
23. 2008 Collections Contract, p. 5; Cynthia Wilson, "Competition Intensifies on ED Collection Contract in Third Quarter," *insideARM* (Sept. 29, 2011), available at: <http://www.insidearm.com/daily/featured-post/competition-intensifies-on-ed-collection-contract-in-third-quarter>.
24. See RFQ 2008, p. 23-24; Cynthia Wilson, "Competition Intensifies on ED Collection Contract in Third Quarter," *insideARM* (Sept. 29, 2011).
25. U.S. Department of Education, "FSA-Private Collection Agency (PCA) Service Area (SA)-Debt Collection Request for QUOTES (RFQ) RFP No. ED-08-R-0052," (May 29, 2008) (hereafter "RFQ 2008"), at 20-23.
26. U.S. Department of Education, Office of Inspector General, *Handling of Borrower Complaints Against Private Collection Agencies*, Control Number ED-OIG/A06M0012 (July 2014) at 15.
27. U.S. Department of Education, "Statement of Work: 2008 Collections Contract," (2008) (hereafter "2008 Collections Contract"), at 9.
28. U.S. Department of Education, Office of Inspector General, *Handling of Borrower Complaints Against Private Collection Agencies*, Control Number ED-OIG/A06M0012 (July 2014) at 15.
29. According to documents received by NCLC, in FY 2012, the Department of Education awarded all of the contractors the full 5 points in the category every quarter. See Appendix A.
30. U.S. Department of Education, Office of Inspector General, *Handling of Borrower Complaints Against Private Collection Agencies*, Control Number ED-OIG/A06M0012 (July 2014) at 1.
31. Deanne Loonin and Jillian McLaughlin, *Borrowers on Hold: Student Loan Collection Agency Complaint Systems Need Massive Improvement*, National Consumer Law Center (May 2012), p. 3; Deanne Loonin and Jillian McLaughlin, *Borrowers on Hold: 2013 Update*, National Consumer Law Center (March 2013), available at: <http://www.studentloanborrowerassistance.org/wp-content/uploads/2013/05/borrower-on-hold-2013.pdf>. p. 3 available at: <http://www.studentloanborrowerassistance.org/uploads/File/borrowers-on-hold.pdf>.
32. U.S. Department of Education, Office of Inspector General, *Handling of Borrower Complaints Against Private Collection Agencies*, Control Number ED-OIG/A06M0012 (July 2014) at 1.
33. For a breakdown of the complaints by collection agency, see Appendix B.
34. This originally data was reported in Deanne Loonin and Jillian McLaughlin, *Borrowers on Hold: Student Loan Collection Agency Complaint Systems Need Massive Improvement*, National Consumer Law Center (May 2012), p. 3. BBB data from this exact same period was not available.
35. Fed. Trade Comm., Press Release: World's Largest Debt Collection Operation Settles FTC Charges, Will Pay \$3.2 Million Penalty (July 2013); available at <http://www.ftc.gov/news-events/press-releases/2013/07/worlds-largest-debt-collection-operation-settles-ftc-charges-will> (last visited May 2, 2014).
36. Id.
37. Attorney Gen. of Texas, Press Release: Attorney General's Enforcement Action Leads To Better Protection, Restitution For Texas Consumers (Dec. 5, 2008), available at <https://www.texasattorneygeneral.gov/OAGNEWS/release.php?id=2757> (last visited May 2, 2014).
38. Fed. Trade Comm., Press Release: NCO Group to Pay Largest FCRA Civil Penalty to Date (May 2004); available at <http://www.ftc.gov/news-events/press-releases/2004/05/nco-group-pay-largest-fcra-civil-penalty-date> (last visited May 2, 2014).
39. See Cynthia Wilson, Competition Intensifies on ED Collection Contract in Third Quarter, *InsideARM* (Oct. 28, 2010); Cynthia Wilson, NCO and CTI Take Top Quarterly Spots on ED Collection Contract, *InsideARM* (Oct. 28, 2010); Cynthia Wilson, Rehabilitated Loans Shake

- Up ED Collection Performance Rankings, *InsideARM* (Oct. 14, 2010); Patrick Lunsford, NCO and ConServe Leading ED Collection Contract So Far in First Quarter, *InsideARM* (Mar. 27, 2009).
40. U.S. Dep't of Educ., Combined Synopsis/Solicitation, Default Collection Services, Solicitation Number: ED-FSA-13-R-0010 (July 3, 2013), available at [https://www.fbo.gov/index?s=opportunity&mode=form&id=ec280c4491480ecb084d663a60c9bdc7&tab=core&\\_cview=1](https://www.fbo.gov/index?s=opportunity&mode=form&id=ec280c4491480ecb084d663a60c9bdc7&tab=core&_cview=1).
  41. *Federal Student Loans: Oversight of Defaulted Loan Rehabilitation Needs Strengthening: Testimony Before the H. Subcomm. on Higher Educ. and Workforce Training, Comm. on Educ. and the Workforce*, 113th Cong. 8 (2014) (statement of Melissa Emrey-Arras, Dir., Educ., Workforce, and Income Sec., U.S. Gov't Accountability Office) available at: <http://www.gao.gov/assets/670/661591.pdf>.
  42. U.S. Gov't Accountability Office, *Federal Student Loans: Better Oversight Could Improve Defaulted Loan Rehabilitation* at 23 (March 2014).
  43. U.S. Gov't Accountability Office, *GAO Highlights, Federal Student Loans: Better Oversight Could Improve Defaulted Loan Rehabilitation* (March 2014).
  44. U.S. Dep't of Educ., Office of Inspector Gen., *Handling of Borrower Complaints Against Private Collection Agencies*, Control Number ED-OIG/A06M0012 (July 2014).
  45. *Id.*
  46. U.S. Dep't of Educ., Office of Inspector General, *Federal Student Aid Paid Private Collection Agencies Based on Estimates*, Control Number ED-OIG/L02N0002 (May 15, 2013).
  47. See Appendix C.
  48. U.S. Dep't of Educ., Office of Inspector General, Memorandum to James Runcie (May 15, 2013).
  49. 5 U.S.C. § 552(b)(4). See Appendix D (FOIA Denial)
  50. See Appendix D. (FOIA Denial)
  51. Compare "Fiscal Q4 2012 Scores" and "\$\$s Collected July–Sept 2012" in Appendix E with data from the same time period in Appendix A.
  52. [http://www.whitehouse.gov/sites/default/files/opengov\\_report.pdf](http://www.whitehouse.gov/sites/default/files/opengov_report.pdf)
  53. Persis Yu, "Guest Post: Ed Dept. Doesn't Think Public Should Know What it Pays Debt Collectors," *New America EdCentral* (Dec. 3, 2013) available at <http://www.edcentral.org/guest-post-ed-dept-doesnt-think-public-know-pays-debt-collectors>.
  54. John Hechinger, "Obama Relies on Debt Collectors Profiting from Student Loan Woe," *Bloomberg News* (Mar. 26, 2012).
  55. U.S. Dep't of Educ., *GA Monthly Reports–April, 2014* (June 6, 2014), available at <https://www.myeddebt.com/partner/partnerGASupportStatsMenu.action>.

## APPENDIX A

# COMPETITIVE PERFORMANCE AND CONTINUOUS SURVEILLANCE SCORE, RANK AND EVALUATION DATA

(Source: U.S. Department of Education)

### Appendix A – Key KEY TO CPCS SPREADSHEETS

CODE	EXPLANATION	CODE	EXPLANATION
CIA	Current Inventory of Account (Number of Borrowers)	CIB	Current Inventory Balance (The dollar value of all loans assigned to the PCA at the end of the quarter)
AR	Administrative Resolution	AIB	Average Inventory Balance (The last 4 quarters of CIB / 4)
AR Rate	AR / CIA	DC	Dollars Collected
AR Total	Administrative Resolution Total	Rec Rate	Recovery Rate ( DC / AIB)
TAS	Total Accounts Serviced	Rec Total	Recovery Rate Total
TAS Rate	TAS / CIA	SB	Small Business points
TAS Total	Total Accounts Serviced Total	CPCS Total	AR Total + TAS Total + Rec Total + SB

### Appendix A(1) CPCS 8 Ranking — Small Business Pool October 1, 2011–December 31, 2011

OVERALL RANK	PCA NAME	CIA 8	AR 8	AR RATE	AR TOTAL	TAS 8	TAS RATE	TAS TOTAL	CIB 4	CIB 5	CIB 6	CIB 7	AIB 8	DC 8	REC RATE	REC TOTAL	CPCS TOTAL
1	COAST PROFESSIONAL	45,533	622	1.36%	10.00	9,243	20.30%	20.00	\$454,333,271	\$403,451,010	\$453,867,258	\$516,256,586	\$456,977,031	\$23,069,355	5.05%	70.00	100.00
2	COLLECTION TECHNOLOGY	51,377	650	1.26%	9.27	9,504	18.50%	18.23	\$522,190,968	\$509,780,539	\$523,457,321	\$585,069,644	\$535,124,618	\$18,493,730	3.46%	47.92	75.41
3	IMMEDIATE CREDIT RECOVERY	40,094	440	1.10%	8.04	6,428	16.03%	15.80	\$349,428,510	\$341,943,490	\$419,244,159	\$463,284,113	\$393,475,068	\$13,705,140	3.48%	48.30	72.13
4	NATIONAL RECOVERIES	40,642	464	1.14%	8.37	7,258	17.86%	17.60	\$382,690,054	\$413,148,990	\$413,755,595	\$462,387,606	\$417,995,561	\$13,808,937	3.30%	45.81	71.77
5	DELTA MANAGEMENT ASSOCIATES	47,566	507	1.07%	7.81	6,165	12.96%	12.77	\$310,016,462	\$320,369,397	\$406,472,391	\$539,781,036	\$394,159,822	\$12,283,092	3.12%	43.21	63.79

**Appendix A(2)**  
**CPCS 8 Ranking — Unrestricted Pool**  
**October 1, 2011–December 31, 2011**

OVERALL RANK	PCA NAME	CIA 8	AR 8	AR RATE	AR TOTAL	TAS 8	TAS RATE	TAS TOTAL	CIB 4	CIB 5	CIB 6	CIB 7	AIB 8	DC 8	REC RATE	REC TOTAL	CPCS TOTAL	SB	CPCS WSB TOTAL
1	FMS INVESTMENT CORP	89,901	1,213	1.35%	7.83	19,373	21.55%	18.70	\$834,605,630	\$848,609,134	\$921,419,737	\$1,007,977,526	\$903,153,007	\$43,095,074	4.77%	70.00	96.53	5.00	101.53
2	PIONEER CREDIT RECOVERY	99,221	1,448	1.46%	8.47	22,446	22.62%	19.63	\$1,092,273,743	\$1,005,453,117	\$1,056,333,077	\$1,136,107,464	\$1,072,541,850	\$49,658,611	4.63%	67.92	96.03	5.00	101.03
3	CONSERVE	94,641	1,230	1.30%	7.54	19,681	20.80%	18.05	\$880,866,382	\$879,760,233	\$1,010,197,754	\$1,085,096,003	\$963,980,093	\$45,299,520	4.70%	68.94	94.53	5.00	99.53
4	GC SERVICES LP	89,264	1,166	1.31%	7.58	19,398	21.73%	18.86	\$917,789,015	\$874,290,783	\$937,163,466	\$995,770,701	\$931,253,491	\$42,047,785	4.52%	66.24	92.68	5.00	97.68
5	PREMIERE CREDIT OF NORTH AMERICA	82,198	1,287	1.57%	9.08	14,682	17.86%	15.50	\$753,045,565	\$719,036,302	\$838,598,606	\$945,073,714	\$813,938,547	\$35,718,375	4.39%	64.38	88.96	5.00	93.96
6	NCO FINANCIAL SYSTEMS	87,891	1,435	1.63%	9.47	20,254	23.04%	20.00	\$1,162,078,467	\$1,077,367,907	\$941,401,659	\$959,812,759	\$1,035,165,198	\$41,607,440	4.02%	58.96	88.44	5.00	93.44
7	VAN RU CREDIT CORP	95,284	1,249	1.31%	7.61	19,555	20.52%	17.81	\$989,126,860	\$930,169,502	\$1,014,871,446	\$1,077,663,922	\$1,002,957,933	\$43,034,790	4.29%	62.95	88.36	5.00	93.36
8	PROGRESSIVE FINANCIAL SERVICES	76,167	1,313	1.72%	10.00	16,664	21.88%	18.99	\$824,573,657	\$756,164,761	\$816,147,008	\$869,286,912	\$816,543,085	\$32,117,021	3.93%	57.70	86.69	5.00	91.69
9	ERS	89,070	1,036	1.16%	6.75	17,266	19.38%	16.82	\$840,438,638	\$830,502,472	\$937,766,987	\$1,015,078,749	\$905,946,712	\$38,549,533	4.26%	62.42	86.00	5.00	91.00
10	PRI (FORMERLY DCS)	96,116	1,247	1.30%	7.53	18,467	19.21%	16.68	\$844,435,839	\$801,155,170	\$935,762,383	\$1,083,762,606	\$916,279,000	\$38,531,240	4.21%	61.69	85.90	5.00	90.90
11	EOS-CCA (COLLECTO INC)	76,998	1,189	1.54%	8.96	17,264	22.42%	19.46	\$810,960,850	\$713,079,683	\$855,762,564	\$883,815,730	\$815,904,707	\$31,198,563	3.82%	56.10	84.51	5.00	89.51
12	ACCOUNT CONTROL TECHNOLOGY	76,975	1,004	1.30%	7.57	15,020	19.51%	16.94	\$848,987,395	\$781,088,544	\$810,252,595	\$878,315,304	\$829,660,960	\$31,058,111	3.74%	54.92	79.42	5.00	84.42
13	WINDHAM PROFESSIONALS	83,224	998	1.20%	6.96	15,608	18.75%	16.28	\$736,780,490	\$715,492,446	\$858,414,271	\$931,256,797	\$810,486,001	\$29,756,176	3.67%	53.86	77.10	5.00	82.10
14	ALLIED INTERSTATE	80,637	962	1.19%	6.92	15,635	19.39%	16.83	\$888,045,548	\$826,984,520	\$894,980,370	\$930,633,159	\$885,160,899	\$31,881,171	3.60%	52.84	76.58	5.00	81.58
15	THE CBE GROUP	73,804	957	1.30%	7.52	13,603	18.43%	16.00	\$845,077,090	\$752,355,540	\$764,041,629	\$817,712,207	\$794,796,617	\$25,287,976	3.18%	46.68	70.19	5.00	75.19
16	WEST ASSET MANAGEMENT	74,390	883	1.19%	6.88	11,089	14.91%	12.94	\$463,844,902	\$452,844,346	\$744,778,022	\$851,373,353	\$628,210,156	\$20,821,929	3.31%	48.62	68.45	5.00	73.45
17	FINANCIAL ASSET MANAGEMENT	84,762	1,002	1.18%	6.86	13,861	16.35%	14.19	\$872,704,904	\$799,295,024	\$908,916,187	\$969,642,862	\$887,639,744	\$27,351,507	3.08%	45.20	66.25	5.00	71.25

**Appendix A(3)**  
**CPCS 9 Ranking — Small Business Pool**  
**January 1, 2012–March 31, 2012**

OVERALL RANK	PCA NAME	CIA 9	AR 9	AR RATE	AR TOTAL	TAS 9	TAS RATE	TAS TOTAL	CIB 5	CIB 6	CIB 7	CIB 8	AIB 9	DC 9	REC RATE	REC TOTAL	CPCS TOTAL
1	COAST PROFESSIONAL	57,237	622	1.09%	10.00	10,219	17.85%	20.00	\$403,451,010	\$453,867,258	\$516,256,586	\$737,042,841	\$527,654,424	\$23,069,355	4.37%	70.00	100.00
2	COLLECTION TECHNOLOGY	63,281	650	1.03%	9.46	9,313	14.72%	16.49	\$509,780,539	\$523,457,321	\$585,069,644	\$809,513,168	\$606,955,168	\$18,493,730	3.05%	48.78	74.73
3	IMMEDIATE CREDIT RECOVERY	49,813	440	0.88%	8.13	7,016	14.08%	15.78	\$341,943,490	\$419,244,159	\$463,284,113	\$645,645,861	\$467,529,406	\$13,705,140	2.93%	46.93	70.84
4	NATIONAL RECOVERIES	51,338	464	0.90%	8.33	7,478	14.57%	16.32	\$413,148,990	\$413,755,595	\$462,387,606	\$664,114,590	\$488,351,695	\$13,808,937	2.83%	45.27	69.92
5	DELTA MANAGEMENT ASSOCIATES	57,544	507	0.88%	8.12	6,624	11.51%	12.90	\$320,369,397	\$406,472,391	\$539,781,036	\$727,689,113	\$498,577,984	\$12,283,092	2.46%	39.44	60.46

## Appendix A – Key KEY TO CPCS SPREADSHEETS

CODE	EXPLANATION	CODE	EXPLANATION
CIA	Current Inventory of Account (Number of Borrowers)	CIB	Current Inventory Balance (The dollar value of all loans assigned to the PCA at the end of the quarter)
AR	Administrative Resolution	AIB	Average Inventory Balance (The last 4 quarters of CIB / 4)
AR Rate	AR / CIA	DC	Dollars Collected
AR Total	Administrative Resolution Total	Rec Rate	Recovery Rate ( DC / AIB)
TAS	Total Accounts Serviced	Rec Total	Recovery Rate Total
TAS Rate	TAS / CIA	SB	Small Business points
TAS Total	Total Accounts Serviced Total	CPCS Total	AR Total + TAS Total + Rec Total + SB

### Appendix A(4) CPCS 9 Ranking — Unrestricted Pool January 1, 2012–March 31, 2012

OVERALL RANK	PCA NAME	CIA 9	AR 9	AR RATE	AR TOTAL	TAS 9	TAS RATE	TAS TOTAL	CIB 5	CIB 6	CIB 7	CIB 8	AIB 9	DC 9	REC RATE	REC TOTAL	CPCS TOTAL	SB	CPCS W/SB TOTAL
1	PIONEER CREDIT RECOVERY	122,201	1,448	1.18%	8.76	23,292	19.06%	19.43	\$1,005,453,117	\$1,056,333,077	\$1,136,107,464	\$1,566,688,350	\$1,191,145,502	\$49,658,611	4.17%	70.00	98.19	5.00	103.19
2	GC SERVICES LP	110,403	1,166	1.06%	7.81	21,661	19.62%	20.00	\$874,290,783	\$937,163,466	\$995,770,701	\$1,391,993,855	\$1,049,804,701	\$42,047,785	4.01%	67.25	95.06	5.00	100.06
3	FMS INVESTMENT CORP	111,968	1,213	1.08%	8.01	19,638	17.54%	17.88	\$848,609,134	\$921,419,737	\$1,007,977,526	\$1,422,125,993	\$1,050,033,097	\$43,095,074	4.10%	68.91	94.80	5.00	99.80
4	CONSERVE	115,491	1,230	1.07%	7.88	21,055	18.23%	18.58	\$879,760,233	\$1,010,197,754	\$1,085,096,003	\$1,477,581,189	\$1,113,158,795	\$45,299,520	4.07%	68.33	94.79	5.00	99.79
5	NCO FINANCIAL SYSTEMS	111,143	1,435	1.29%	9.54	21,329	19.19%	19.56	\$1,077,367,907	\$941,401,659	\$959,812,759	\$1,396,953,905	\$1,093,884,058	\$41,607,440	3.80%	63.87	92.97	5.00	97.97
6	VAN RU CREDIT CORP	115,554	1,249	1.08%	7.99	19,978	17.29%	17.62	\$930,169,502	\$1,014,871,446	\$1,077,663,922	\$1,459,001,642	\$1,120,426,628	\$43,034,790	3.84%	64.49	90.11	5.00	95.11
7	PREMIERE CREDIT OF NORTH AMERICA	102,128	1,287	1.26%	9.32	15,096	14.78%	15.07	\$719,036,302	\$838,598,606	\$945,073,714	\$1,320,358,247	\$955,766,717	\$35,718,375	3.74%	62.75	87.13	5.00	92.13
8	PROGRESSIVE FINANCIAL SERVICES	97,061	1,313	1.35%	10.00	17,909	18.45%	18.81	\$756,164,761	\$816,147,008	\$869,286,912	\$1,261,186,628	\$925,696,327	\$32,117,021	3.47%	58.26	87.06	5.00	92.06
9	PRI (FORMERLY DCS)	116,912	1,247	1.07%	7.89	21,622	18.49%	18.85	\$801,155,170	\$935,762,383	\$1,083,762,606	\$1,473,898,497	\$1,073,644,664	\$38,531,240	3.59%	60.26	87.00	5.00	92.00
10	ERS	110,930	1,036	0.93%	6.91	17,951	16.18%	16.50	\$830,502,472	\$937,766,987	\$1,015,078,749	\$1,425,075,567	\$1,052,105,944	\$38,549,533	3.66%	61.52	84.92	5.00	89.92
11	EOS-CCA (COLLECTO INC)	97,908	1,189	1.21%	8.98	18,695	19.09%	19.46	\$713,079,683	\$855,762,564	\$883,815,730	\$1,275,840,865	\$932,124,711	\$31,198,563	3.35%	56.20	84.64	5.00	89.64
12	ACCOUNT CONTROL TECHNOLOGY	94,665	1,004	1.06%	7.85	17,071	18.03%	18.38	\$781,088,544	\$810,252,595	\$878,315,304	\$1,210,310,296	\$919,991,685	\$31,058,111	3.38%	56.68	82.91	5.00	87.91
13	WINDHAM PROFESSIONALS	102,250	998	0.98%	7.22	18,135	17.74%	18.08	\$715,492,446	\$858,414,271	\$931,256,797	\$1,289,054,596	\$948,554,527	\$29,756,176	3.14%	52.67	77.97	5.00	82.97
14	ALLIED INTERSTATE	99,583	962	0.97%	7.14	15,186	15.25%	15.54	\$826,984,520	\$894,980,370	\$930,633,159	\$1,284,268,448	\$984,216,624	\$31,881,171	3.24%	54.39	77.07	5.00	82.07
15	THE CBE GROUP	92,322	957	1.04%	7.66	14,934	16.18%	16.49	\$752,355,540	\$764,041,629	\$817,712,207	\$1,164,029,832	\$874,534,802	\$25,287,976	2.89%	48.55	72.70	5.00	77.70
16	FINANCIAL ASSET MANAGEMENT	104,680	1,002	0.96%	7.08	14,030	13.40%	13.66	\$799,295,024	\$908,916,187	\$969,642,862	\$1,343,332,660	\$1,005,296,683	\$27,351,507	2.72%	45.68	66.42	5.00	71.42
17	WEST ASSET MANAGEMENT	91,346	883	0.97%	7.14	13,311	14.57%	14.85	\$452,844,346	\$744,778,022	\$851,373,353	\$1,169,882,898	\$804,719,655	\$20,821,929	2.59%	43.45	65.44	5.00	70.44

### Appendix A(5) CPCS 10 Ranking—Small Business Pool April 1, 2012 — June 30, 2012

OVERALL RANK	PCA NAME	CIA 10	AR 10	AR RATE	AR TOTAL	TAS 10	TAS RATE	TAS TOTAL	CIB 6	CIB 7	CIB 8	CIB 9	AIB 10	DC 10	REC RATE	REC TOTAL	CPCS TOTAL
1	COAST PROFESSIONAL	69,678	622	0.89%	10.00	11,176	16.04%	20.00	\$453,867,258	\$516,256,586	\$737,042,841	\$804,524,818	\$627,922,876	\$23,069,355	3.67%	70.00	100.00
2	COLLECTION TECHNOLOGY	76,154	650	0.85%	9.57	9,647	12.67%	15.80	\$523,457,321	\$585,069,644	\$809,513,168	\$879,319,019	\$699,339,788	\$18,493,730	2.64%	50.39	75.75
3	NATIONAL RECOVERIES	62,701	464	0.74%	8.30	7,633	12.17%	15.18	\$413,755,595	\$462,387,606	\$664,114,590	\$725,770,058	\$566,506,962	\$13,808,937	2.44%	46.44	69.93
4	IMMEDIATE CREDIT RECOVERY	60,144	440	0.73%	8.20	7,081	11.77%	14.68	\$419,244,159	\$463,284,113	\$645,645,861	\$701,659,071	\$557,458,301	\$13,705,140	2.46%	46.84	69.72
5	DELTA MANAGEMENT ASSOCIATES	68,143	507	0.74%	8.35	7,048	10.34%	12.90	\$406,472,391	\$539,781,036	\$727,689,113	\$785,207,683	\$614,787,556	\$12,283,092	2.00%	38.07	59.31

**Appendix A(6)**  
**CPCS 10 Ranking—Unrestricted Pool**  
**April 1, 2012 — June 30, 2012**

OVERALL RANK	PCA NAME	CIA 10	AR 10	AR RATE	AR TOTAL	TAS 10	TAS RATE	TAS TOTAL	CIB 6	CIB 7	CIB 8	CIB 9	AIB 10	DC 10	REC RATE	REC TOTAL	CPCS TOTAL	SB	CPCS W/ SB TOTAL
1	PIONEER CREDIT RECOVERY	146,106	1,448	0.99%	9.17	22,395	15.33%	17.84	\$1,056,333,077	\$1,136,107,464	\$1,566,688,350	\$1,696,298,296	\$1,363,856,797	\$49,658,611	3.64%	70.00	97.01	5.00	102.01
2	GC SERVICES LP	132,376	1,166	0.88%	8.15	22,751	17.19%	20.00	\$937,163,466	\$995,770,701	\$1,391,993,855	\$1,511,109,520	\$1,209,009,386	\$42,047,785	3.48%	66.86	95.02	5.00	100.02
3	NCO FINANCIAL SYSTEMS	135,340	1,435	1.06%	9.81	21,020	15.53%	18.07	\$941,401,659	\$959,812,759	\$1,396,953,905	\$1,528,229,187	\$1,206,599,378	\$41,607,440	3.45%	66.29	94.18	5.00	99.18
4	CONSERVE	137,188	1,230	0.90%	8.30	21,635	15.77%	18.35	\$1,010,197,754	\$1,085,096,003	\$1,477,581,189	\$1,595,176,915	\$1,292,012,965	\$45,299,520	3.51%	67.41	94.06	5.00	99.06
5	FMS INVESTMENT CORP	134,926	1,213	0.90%	8.32	20,808	15.42%	17.95	\$921,419,737	\$1,007,977,526	\$1,422,125,993	\$1,546,607,322	\$1,224,532,644	\$43,095,074	3.52%	67.66	93.93	5.00	98.93
6	VAN RU CREDIT CORP	136,620	1,249	0.91%	8.46	19,459	14.24%	16.57	\$1,014,871,446	\$1,077,663,922	\$1,459,001,642	\$1,573,208,072	\$1,281,186,270	\$43,034,790	3.36%	64.58	89.61	5.00	94.61
7	PRI (FORMERLY DCS)	138,543	1,247	0.90%	8.33	23,620	17.05%	19.84	\$935,762,383	\$1,083,762,606	\$1,473,898,497	\$1,591,146,761	\$1,271,142,562	\$38,531,240	3.03%	58.28	86.45	5.00	91.45
8	PREMIERE CREDIT OF NORTH AMERICA	122,860	1,287	1.05%	9.69	16,444	13.38%	15.58	\$838,598,606	\$945,073,714	\$1,320,358,247	\$1,432,728,676	\$1,134,189,811	\$35,718,375	3.15%	60.54	85.81	5.00	90.81
9	PROGRESSIVE FINANCIAL SERVICES	121,488	1,313	1.08%	10.00	19,268	15.86%	18.46	\$816,147,008	\$869,286,912	\$1,261,186,628	\$1,398,481,401	\$1,086,275,487	\$32,117,021	2.96%	56.84	85.30	5.00	90.30
10	ERS	133,665	1,036	0.78%	7.17	19,060	14.26%	16.59	\$937,766,987	\$1,015,078,749	\$1,425,075,567	\$1,548,306,787	\$1,231,557,023	\$38,549,533	3.13%	60.18	83.95	5.00	88.95
11	ACCOUNT CONTROL TECHNOLOGY	113,120	1,004	0.89%	8.22	18,315	16.19%	18.84	\$810,252,595	\$878,315,304	\$1,210,310,296	\$1,310,343,258	\$1,052,305,363	\$31,058,111	2.95%	56.74	83.80	5.00	88.80
12	EOS-CCA (COLLECTO INC)	119,640	1,189	0.99%	9.20	19,272	16.11%	18.74	\$855,762,564	\$883,815,730	\$1,275,840,865	\$1,393,648,769	\$1,102,266,982	\$31,198,563	2.83%	54.42	82.35	5.00	87.35
13	WINDHAM PROFESSIONALS	122,026	998	0.82%	7.57	19,820	16.24%	18.90	\$858,414,271	\$931,256,797	\$1,289,054,596	\$1,396,240,830	\$1,118,741,624	\$29,756,176	2.66%	51.14	77.61	5.00	82.61
14	ALLIED INTERSTATE	119,287	962	0.81%	7.46	15,663	13.13%	15.28	\$894,980,370	\$930,633,159	\$1,284,268,448	\$1,391,127,051	\$1,125,252,257	\$31,881,171	2.83%	54.47	77.21	5.00	82.21
15	THE CBE GROUP	111,567	957	0.86%	7.94	15,672	14.05%	16.35	\$764,041,629	\$817,712,207	\$1,164,029,832	\$1,268,317,101	\$1,003,525,192	\$25,287,976	2.52%	48.45	72.73	5.00	77.73
16	FINANCIAL ASSET MANAGEMENT	125,401	1,002	0.80%	7.39	13,037	10.40%	12.10	\$908,916,187	\$969,642,862	\$1,343,332,660	\$1,455,648,965	\$1,169,385,168	\$27,351,507	2.34%	44.97	64.46	5.00	69.46
17	WEST ASSET MANAGEMENT	108,967	883	0.81%	7.50	14,364	13.18%	15.34	\$744,778,022	\$851,373,353	\$1,169,882,898	\$1,265,378,814	\$1,007,853,272	\$20,821,929	2.07%	39.72	62.55	5.00	67.55

**Appendix A(7)**  
**CPCS 11 Ranking—Small Business Pool**  
**July 1, 2012 — September 30, 2012**

OVERALL RANK	PCA NAME	CIA 11	AR 11	AR RATE	AR TOTAL	TAS 11	TAS RATE	TAS TOTAL	CIB 7	CIB 8	CIB 9	CIB 10	AIB 11	DC 11	REC RATE	REC TOTAL	CPCS TOTAL
1	COAST PROFESSIONAL	91,750	622	0.68%	10.00	11,518	12.55%	20.00	\$516,256,586	\$737,042,841	\$804,524,818	\$1,050,782,556	\$777,151,700	\$23,069,355	2.97%	70.00	100.00
2	COLLECTION TECHNOLOGY	98,610	650	0.66%	9.73	10,649	10.80%	17.21	\$585,069,644	\$809,513,168	\$879,319,019	\$1,129,869,273	\$850,942,776	\$18,493,730	2.17%	51.25	78.18
3	NATIONAL RECOVERIES	82,873	464	0.56%	8.27	9,205	11.11%	17.70	\$462,387,606	\$664,114,590	\$725,770,058	\$950,793,825	\$700,766,520	\$13,808,937	1.97%	46.47	72.44
4	IMMEDIATE CREDIT RECOVERY	78,467	440	0.56%	8.27	7,875	10.04%	15.99	\$463,284,113	\$645,645,861	\$701,659,071	\$905,843,506	\$679,108,138	\$13,705,140	2.02%	47.59	71.85
5	DELTA MANAGEMENT ASSOCIATES	86,975	507	0.58%	8.61	7,648	8.79%	14.01	\$539,781,036	\$727,689,113	\$785,207,683	\$995,190,329	\$761,967,040	\$12,283,092	1.61%	38.01	60.63

## Appendix A – Key KEY TO CPCS SPREADSHEETS

CODE	EXPLANATION	CODE	EXPLANATION
CIA	Current Inventory of Account (Number of Borrowers)	CIB	Current Inventory Balance (The dollar value of all loans assigned to the PCA at the end of the quarter)
AR	Administrative Resolution	AIB	Average Inventory Balance (The last 4 quarters of CIB / 4)
AR Rate	AR / CIA	DC	Dollars Collected
AR Total	Administrative Resolution Total	Rec Rate	Recovery Rate ( DC / AIB)
TAS	Total Accounts Served	Rec Total	Recovery Rate Total
TAS Rate	TAS / CIA	SB	Small Business points
TAS Total	Total Accounts Served Total	CPCS Total	AR Total + TAS Total + Rec Total + SB

## Appendix A(8) CPCS 11 Ranking–Unrestricted Pool July 1, 2012 — September 30, 2012

OVERALL RANK	PCA NAME	CIA 11	AR 11	AR RATE	AR TOTAL	TAS 11	TAS RATE	TAS TOTAL	CIB 7	CIB 8	CIB 9	CIB 10	AIB 11	DC 11	REC RATE	REC TOTAL	CPCS TOTAL	SB	CPCS W/SB TOTAL
1	PIONEER CREDIT RECOVERY	174,099	1,448	0.83%	9.31	24,148	13.87%	17.94	\$1,136,107,464	\$1,566,688,350	\$1,696,298,296	\$2,039,942,672	\$1,609,759,196	\$49,658,611	3.08%	70.00	97.25	5.00	102.25
2	FMS INVESTMENT CORP	161,809	1,213	0.75%	8.39	24,888	15.38%	19.89	\$1,007,977,526	\$1,422,125,993	\$1,546,607,322	\$1,876,367,784	\$1,463,269,656	\$43,095,074	2.95%	66.83	95.11	5.00	100.11
3	GC SERVICES LP	155,943	1,166	0.75%	8.37	23,251	14.91%	19.28	\$995,770,701	\$1,391,993,855	\$1,511,109,520	\$1,803,956,569	\$1,425,707,661	\$42,047,785	2.95%	66.92	94.58	5.00	99.58
4	CONSERVE	162,585	1,230	0.76%	8.47	22,055	13.57%	17.55	\$1,085,096,003	\$1,477,581,189	\$1,595,176,915	\$1,906,777,426	\$1,516,157,883	\$45,299,520	2.99%	67.80	93.81	5.00	98.81
5	NCO FINANCIAL SYSTEMS	163,679	1,435	0.88%	9.81	21,591	13.19%	17.06	\$959,812,759	\$1,396,953,905	\$1,528,229,187	\$1,875,697,698	\$1,440,173,387	\$41,607,440	2.89%	65.56	92.43	5.00	97.43
6	VAN RU CREDIT CORP	161,287	1,249	0.77%	8.67	20,229	12.54%	16.22	\$1,077,663,922	\$1,459,001,642	\$1,573,208,072	\$1,875,570,310	\$1,496,360,987	\$43,034,790	2.88%	65.26	90.15	5.00	95.15
7	PRI (FORMERLY DCS)	163,874	1,247	0.76%	8.52	24,831	15.15%	19.60	\$1,083,762,606	\$1,473,898,497	\$1,591,146,761	\$1,901,862,121	\$1,512,667,496	\$38,531,240	2.55%	57.80	85.92	5.00	90.92
8	PREMIERE CREDIT OF NORTH AMERICA	147,139	1,287	0.87%	9.79	18,560	12.61%	16.31	\$945,073,714	\$1,320,358,247	\$1,432,728,676	\$1,730,888,637	\$1,357,262,319	\$35,718,375	2.63%	59.72	85.82	5.00	90.82
9	ERS	158,036	1,036	0.66%	7.34	21,199	13.41%	17.35	\$1,015,078,749	\$1,425,075,567	\$1,548,306,787	\$1,851,247,347	\$1,459,927,113	\$38,549,533	2.64%	59.92	84.61	5.00	89.61
10	PROGRESSIVE FINANCIAL SERVICES	146,938	1,313	0.89%	10.00	21,268	14.47%	18.72	\$869,286,912	\$1,261,186,628	\$1,398,481,401	\$1,710,947,933	\$1,309,975,718	\$32,117,021	2.45%	55.63	84.35	5.00	89.35
11	ACCOUNT CONTROL TECHNOLOGY	145,126	1,004	0.69%	7.75	20,758	14.30%	18.50	\$878,315,304	\$1,210,310,296	\$1,310,343,258	\$1,667,167,804	\$1,266,534,166	\$31,058,111	2.45%	55.64	81.89	5.00	86.89
12	EOS-CCA (COLLECTO INC)	145,122	1,189	0.82%	9.17	19,646	13.54%	17.51	\$883,815,730	\$1,275,840,865	\$1,393,648,769	\$1,706,432,015	\$1,314,934,345	\$31,198,563	2.37%	53.84	80.52	5.00	85.52
13	ALLIED INTERSTATE	142,365	962	0.68%	7.56	18,282	12.84%	16.61	\$930,633,159	\$1,284,268,448	\$1,391,127,051	\$1,674,227,926	\$1,320,064,146	\$31,881,171	2.42%	54.80	78.97	5.00	83.97
14	WINDHAM PROFESSIONALS	145,209	998	0.69%	7.70	22,454	15.46%	20.00	\$931,256,797	\$1,289,054,596	\$1,396,240,830	\$1,680,573,922	\$1,324,281,536	\$29,756,176	2.25%	50.99	78.68	5.00	83.68
15	THE CBG GROUP	145,028	957	0.66%	7.39	16,117	11.11%	14.37	\$817,712,207	\$1,164,029,832	\$1,268,317,101	\$1,641,631,374	\$1,222,922,629	\$25,287,976	2.07%	46.92	68.68	5.00	73.68
16	FINANCIAL ASSET MANAGEMENT	149,670	1,002	0.67%	7.49	13,242	8.85%	11.44	\$969,642,862	\$1,343,332,660	\$1,455,648,965	\$1,753,309,175	\$1,380,483,416	\$27,351,507	1.98%	44.96	63.89	5.00	68.89
17	WEST ASSET MANAGEMENT	139,609	883	0.63%	7.08	15,533	11.13%	14.39	\$851,373,353	\$1,169,882,898	\$1,265,378,814	\$1,607,033,443	\$1,223,417,127	\$20,821,929	1.70%	38.62	60.09	5.00	65.09

## Appendix A(9) U.S. Department of Education Bonuses to Debt Collection Agencies (FY 2012)

AGENCY	EARNED BONUS	AGENCY	EARNED BONUS
AG581 ConServe	\$2,409,673.16	AG592 Van Ru	\$552,027.25
AG585 FMS	\$3,570,584.10	AG595 Coast	\$3,017,121.46
AG586 GC Services	\$1,970,744.85	AG596 CTI	\$1,386,412.63
AG587 NCO	\$1,369,628.38	AG578 ACT	\$1,194,173.78
AG588 Pioneer	\$5,999,757.53	AG596 Performant	\$693,206.32
AG589 Premiere	\$185,955.26		



## APPENDIX B

# LOCAL BETTER BUSINESS BUREAU (BBB) & FEDERAL TRADE COMMISSION (FTC) COMPLAINTS AGAINST DEPARTMENT OF EDUCATION CONTRACTORS

PRIVATE COLLECTION AGENCY	NUMBER OF COMPLAINTS TO THE BBB FROM MARCH 2011 TO MARCH 2012	FTC COMPLAINTS IN 2012
Account Control Technology	4	15
Allied Interstate	296	62
CBE Group	72	467
Coast Professional	15	1
Collection Technology, Inc.	10	20
ConServe	35	2
Delta Management Associates	0	17
Diversified Collection Services	119	207
Enterprise Recovery Systems	13	73
EOS-CCA (formerly Collecto)	179	18
Financial Asset Management Systems	18	103
FMS Investment Corp. <sup>1</sup>	N/A	6
GC Services LP	86	452
Immediate Credit Recovery <sup>2</sup>	N/A	17
National Recoveries	4	11
NCO Group	314	1619
Pioneer Credit Recovery	46	210
Premiere Credit of North America	18	39
Progressive Financial Services	69	242
Van Ru Credit Corporation	34	132
West Asset Management	50	440
Windham Professionals	47	222

<sup>1</sup> The local Better Business Bureau (BBB) located where FMS Investment Corp. operates does not have an online profile for the company.

<sup>2</sup> Immediate Credit Recovery also does not have a BBB profile.

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APPENDIX C

THE NATIONAL CONSUMER LAW  
CENTER'S FREEDOM OF INFORMATION  
ACT REQUEST TO THE U.S. DEPARTMENT  
OF EDUCATION

(March 29, 2013)



March 29, 2013

SENT VIA EMAIL

U.S. Department of Education  
Office of Management  
Regulatory Information Management Services  
400 Maryland Avenue, SW, LBJ 2W220  
Washington, DC 20202-4536  
EDFOIAManager@ed.gov

**Re: Freedom of Information Act Request**

Dear Chief Information Officer:

On behalf of the National Consumer Law Center, pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, I hereby request the following records:

**Information about Private Collection Agency Contractor Performance Evaluation**

- (1) All documents (including memorandum, letters, communications, forms, reports, and other data) used to calculate the Competitive Performance and Continuous Surveillance (CPCS) scores for each Private Collection Agency Contractor for Fiscal Year 2012, including documents and data submitted by each Private Collection Agency to the Department of Education.
- (2) All documents, results, and calculations relating to the ranking of Private Collection Agency Contractors based upon CPCS standing and scores for Fiscal Year 2012, including but not limited to:
  - a. The overall score awarded to each Private Collection Agency Contractor for every Performance Evaluation done in FY 2012;
  - b. The number of points awarded to each Private Collection Agency Contractor in all categories for every Performance Evaluation done in FY 2012; and
  - c. Each Private Collection Agency Contractor's ranking for every Performance Evaluation done in FY 2012.

[www.NCLC.org](http://www.NCLC.org)

**Boston Headquarters:**

7 Winthrop Square  
Boston, MA 02110-1245  
Phone: 617/542-8010  
Fax: 617/542-8028

**Washington Office:**

1001 Connecticut Ave. NW  
Ste. 510  
Washington, DC 20036-5528  
Phone: 202/452-6252  
Fax: 202/463-9462

- (3) All memorandum, reports, and other documents indicating the amount of any bonuses and/or incentive fees paid to each Private Collection Agency Contractors based upon CPCS standing and scores, or for any other reason in Fiscal Year 2012.

In your response to this request, please specify whether: (1) you are providing all documents responsive to the request; (2) no documents exist that are responsive to the request; or (3) documents exist that are responsive to the request, but you are claiming that some or all of those documents are exempt from disclosure.

If it is your position that some of the requested documents or some portion of any of the requested documents are exempt from disclosure, please provide the nonexempt portions of those records. In addition, if it is your position that records exist that are responsive to this request, but that those records (or portions of those records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each document being withheld. Also, please identify the person making the decision to deny the request.

The National Consumer Law Center requests that all fees in connection with this FOIA request be waived in accordance with 5 U.S.C. § 552(a)(4)(A)(iii), because it does not seek the records for a commercial purpose and disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government. The National Consumer Law Center, a nonprofit corporation founded in 1969, assists consumers, advocates, and public policy makers nationwide who use the powerful and complex tools of consumer law to ensure justice and fair treatment for all, particularly those whose poverty renders them powerless to demand accountability.

The National Consumer Law Center regularly issues reports, books, and newsletters on consumer issues, including student loan law, which are distributed to consumers, lawyers, academics, and other interested parties. These publications, which are listed on our website, [www.nclc.org](http://www.nclc.org) and [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org), often include information obtained through FOIA. We expect to publish information we receive pursuant to this FOIA request because to do so would contribute significantly to the public's understanding of student loan programs. Please note that your office has previously granted fee waivers for our organization and should have basic information about us on file.

Accordingly, we request that you waive all fees for locating and duplicating the requested records. If, however, a waiver is not granted, then please advise us of the amount of any proposed search and reproduction charges before those activities are carried out.

We will expect a response within 20 working days as provided by law. If you have any questions regarding this request, please contact me at (617) 542-8010.

Thank you very much for your attention to this matter.

Sincerely,  
/s/  
Persis S. Yu

---

APPENDIX D

THE U.S. DEPARTMENT OF EDUCATION'S  
DENIAL OF THE NATIONAL CONSUMER  
LAW CENTER'S FREEDOM OF  
INFORMATION ACT REQUEST

(including sample documents)



**UNITED STATES DEPARTMENT OF EDUCATION**

OFFICE OF MANAGEMENT

Privacy, Information, and Records Management Services

August 2, 2013

Ms. Persis Yu  
Staff Attorney  
National Consumer Law Center  
7 Winthrop Square, 4<sup>th</sup> Floor  
Boston, MA 02110

RE: FOIA Request No. 13-01138-F

Dear Ms. Yu:

This is the Department's final response to your e-mail dated March 29, 2013, requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You requested that a copy of the following documents or documents containing the following information be provided to you:

- Information about Private Collection Agency Contractor Performance Evaluation:
  1. All documents (including memorandum, letters, communications, forms, reports, and other data) used to calculate the Competitive Performance and Continuous Surveillance (CPCS) scores for each Private Collection Agency Contractor for Fiscal Year 2012, including documents and data submitted by each Private Collection Agency to the Department of Education.
  2. All documents, results, and calculations relating to the ranking of Private Collection Agency Contractors based on CPCS standing and scores for Fiscal Year 2012, including but not limited to:
    - a. The overall score awarded to each Private Collection Agency Contractor for every Performance Evaluation done in FY 2012;
    - b. The number of points awarded to each Private Collection Agency Contractor in all categories for every Performance Evaluation done in FY 2012; and
    - c. Each Private Collection Agency Contractor's ranking for every Performance Evaluation done in FY 2012.
  3. All memoranda, reports, and other documents indicating the amount of any bonuses and/or incentive fees paid to each Private Collection Agency Contractors based upon CPCS standing and scores, or for any other reason in Fiscal Year 2012.

400 MARYLAND AVE., S.W., WASHINGTON, DC 20202-4500  
[www.ed.gov](http://www.ed.gov)

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Page 2 -- Ms. Persis Yu  
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Your request was forwarded to Federal Student Aid (FSA) within the Department to search for documents that may be responsive to your request.

Enclosed is a CD containing 25 pages of documents responsive to Items 1 and 2 of your request. FSA advises that it has no documents responsive to Item 3. However, certain information has been withheld (including 17 pages in their entirety) according to the FOIA exemption specified below:

- Records or portions of records relating to trade secrets and commercial or financial information is exempt pursuant to 5 U.S.C. § 552 (b)(4) of the FOIA. This provision exempts from disclosure "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential."

You have the right to appeal this decision by writing to the address below, within 35 days from the date of this letter. Your appeal should be accompanied by a copy of your initial letter of request, this denial letter, and any evidence or argument you wish the Department to consider in making an administrative determination on your appeal.

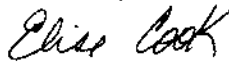
**Appeal Address:**

U.S. Department of Education  
Assistant Secretary for Management  
Office of Management  
400 Maryland Avenue, SW, LBJ, 2W311  
ATTN: FOIA Appeals Office  
Washington, DC 20202-4500

Or, you may complete the online FOIA appeal form, located at:  
[http://www.ed.gov/policy/gen/leg/foia/foia\\_appeal\\_form\\_1.html](http://www.ed.gov/policy/gen/leg/foia/foia_appeal_form_1.html).

If you have any questions, please contact the FOIA Service Center (FSC) at (202) 401-8365 or [EDFOIAManager@ed.gov](mailto:EDFOIAManager@ed.gov).

Sincerely,



Elise Cook  
FOIA Public Liaison  
FOIA Service Center  
U.S. Department of Education

Enclosure

400 MARYLAND AVE., S.W., WASHINGTON, DC 20202-4500  
[www.ed.gov](http://www.ed.gov)

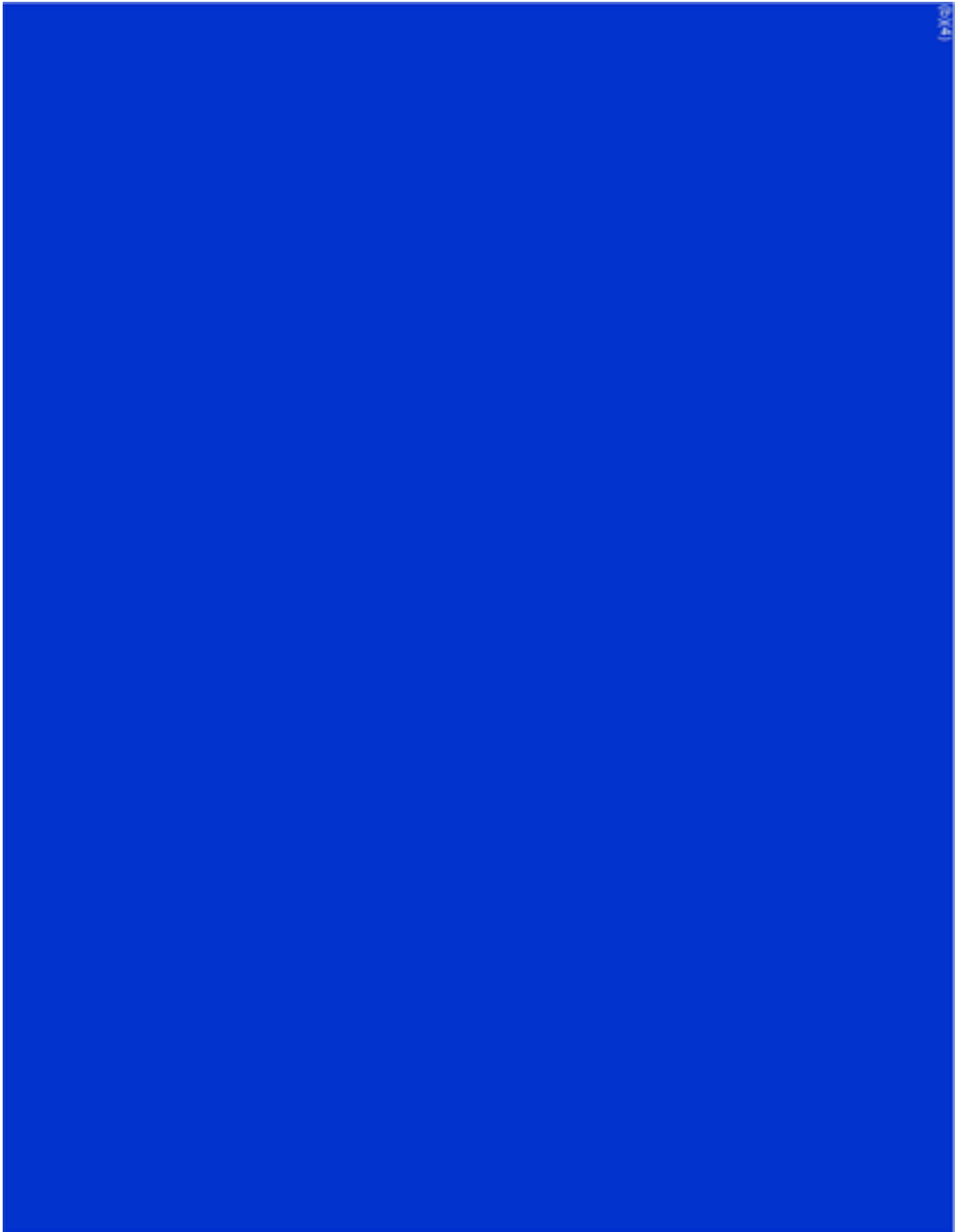
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# CPCS 8 Ranking - Unrestricted Pool

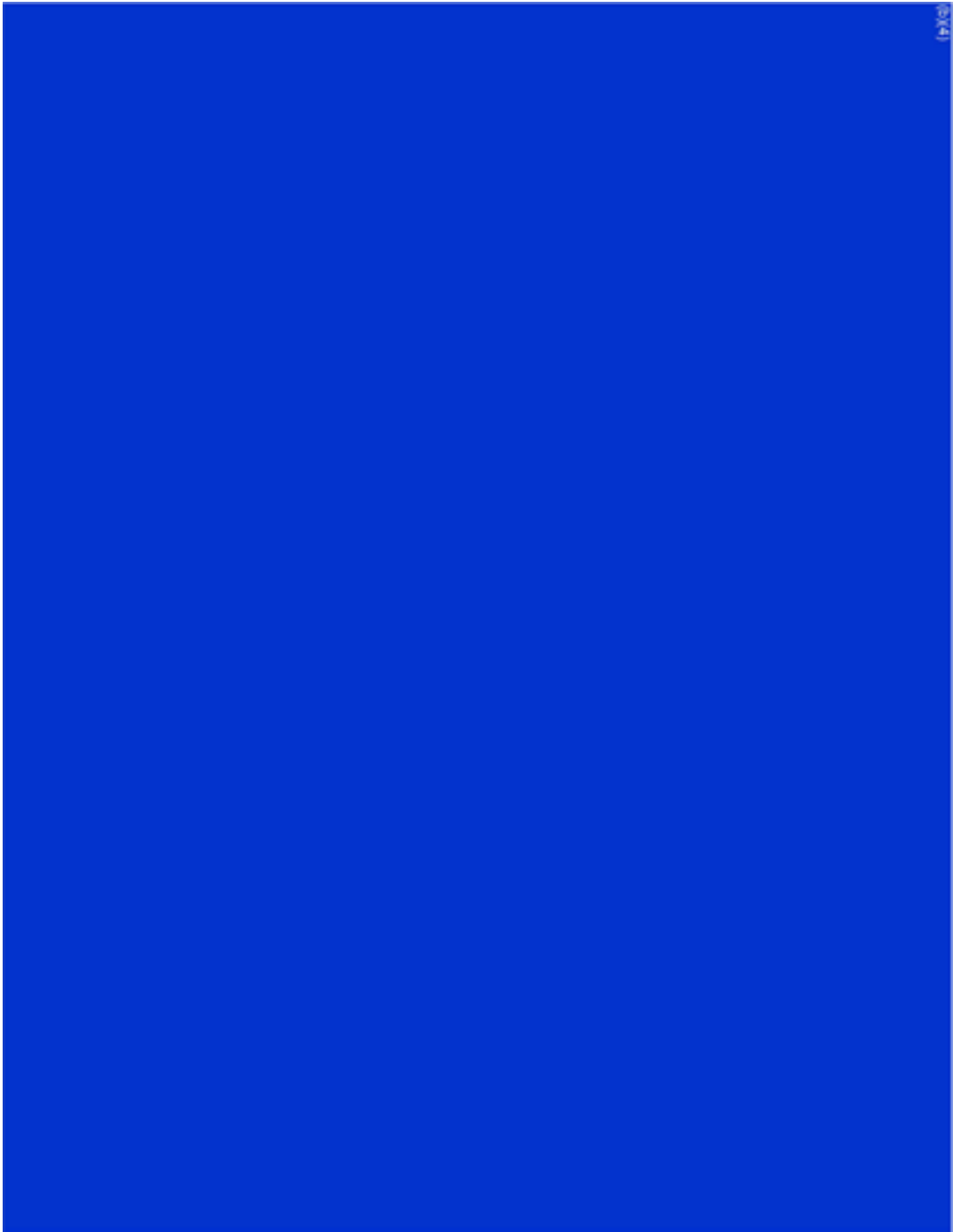
October 1, 2011 - December 31, 2011

Rank	Company	10/1/11
1	STAPLES	10/1/11
2	REYNOLDS AND REYNOLDS	10/1/11
3	CONSUMER	10/1/11
4	UNITED STATES	10/1/11
5	WELLS FARGO	10/1/11
6	AMERICAN EXPRESS	10/1/11
7	AMERICAN EXPRESS	10/1/11
8	AMERICAN EXPRESS	10/1/11
9	AMERICAN EXPRESS	10/1/11
10	AMERICAN EXPRESS	10/1/11
11	AMERICAN EXPRESS	10/1/11
12	AMERICAN EXPRESS	10/1/11
13	AMERICAN EXPRESS	10/1/11
14	AMERICAN EXPRESS	10/1/11
15	AMERICAN EXPRESS	10/1/11
16	AMERICAN EXPRESS	10/1/11
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19	AMERICAN EXPRESS	10/1/11
20	AMERICAN EXPRESS	10/1/11

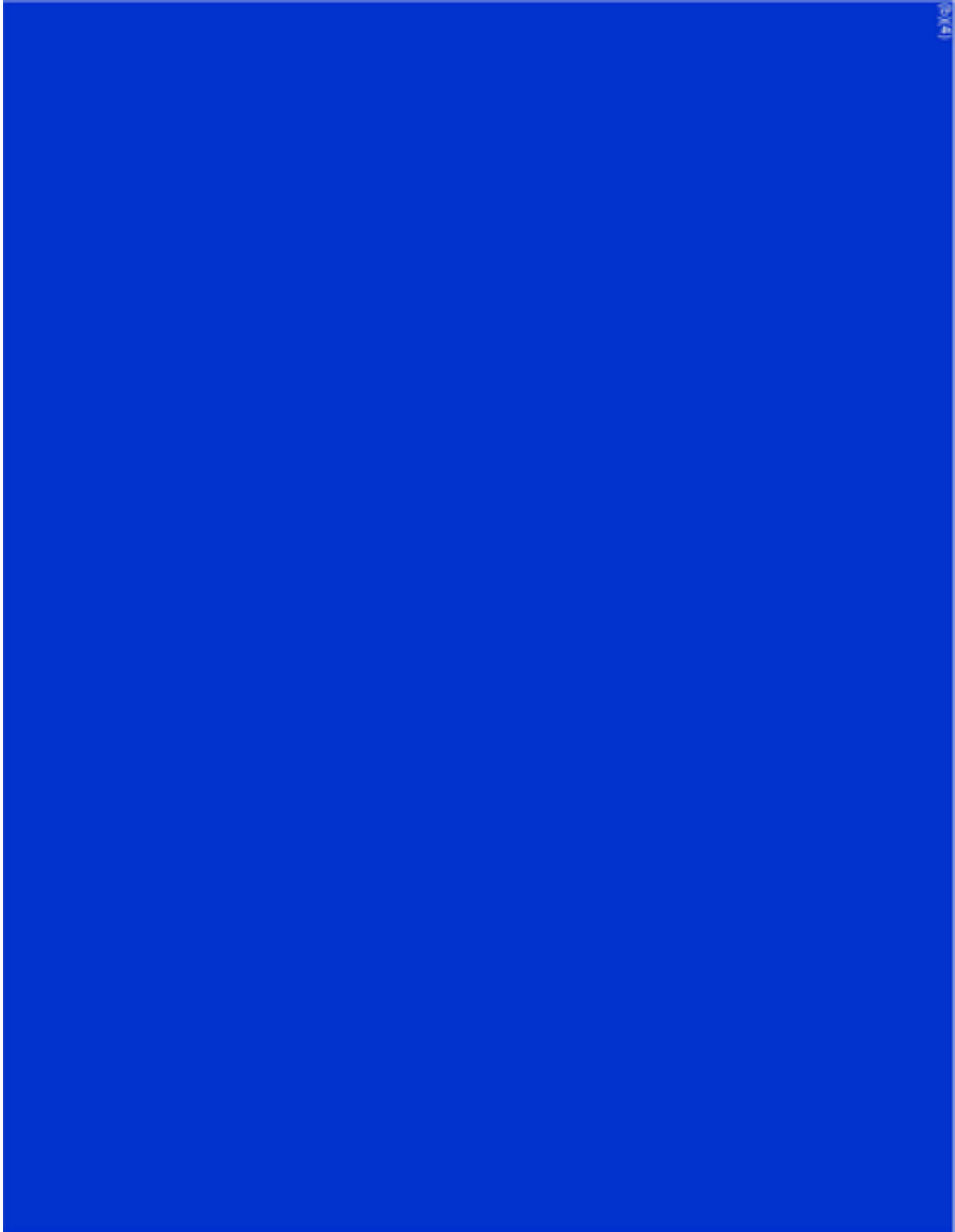




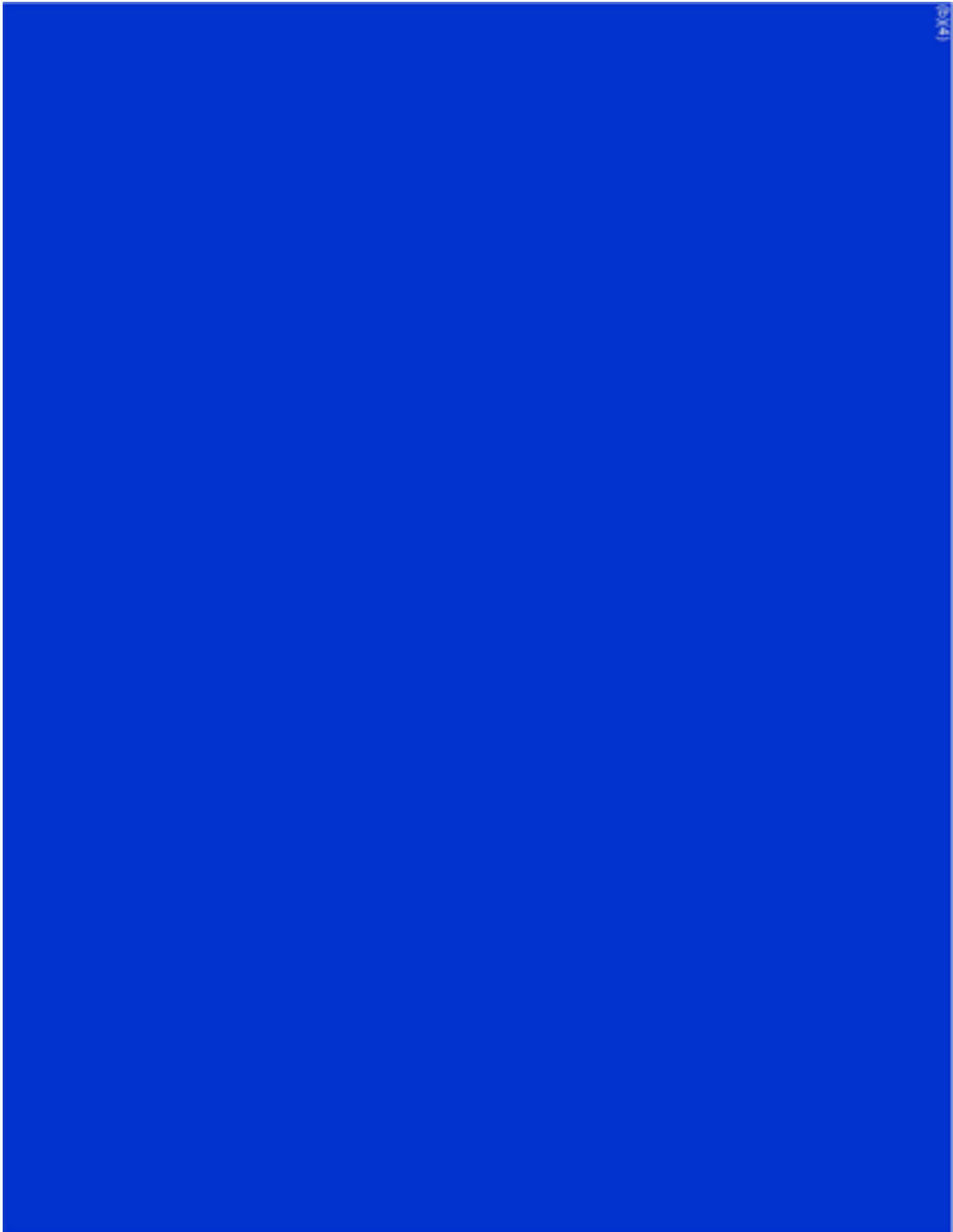
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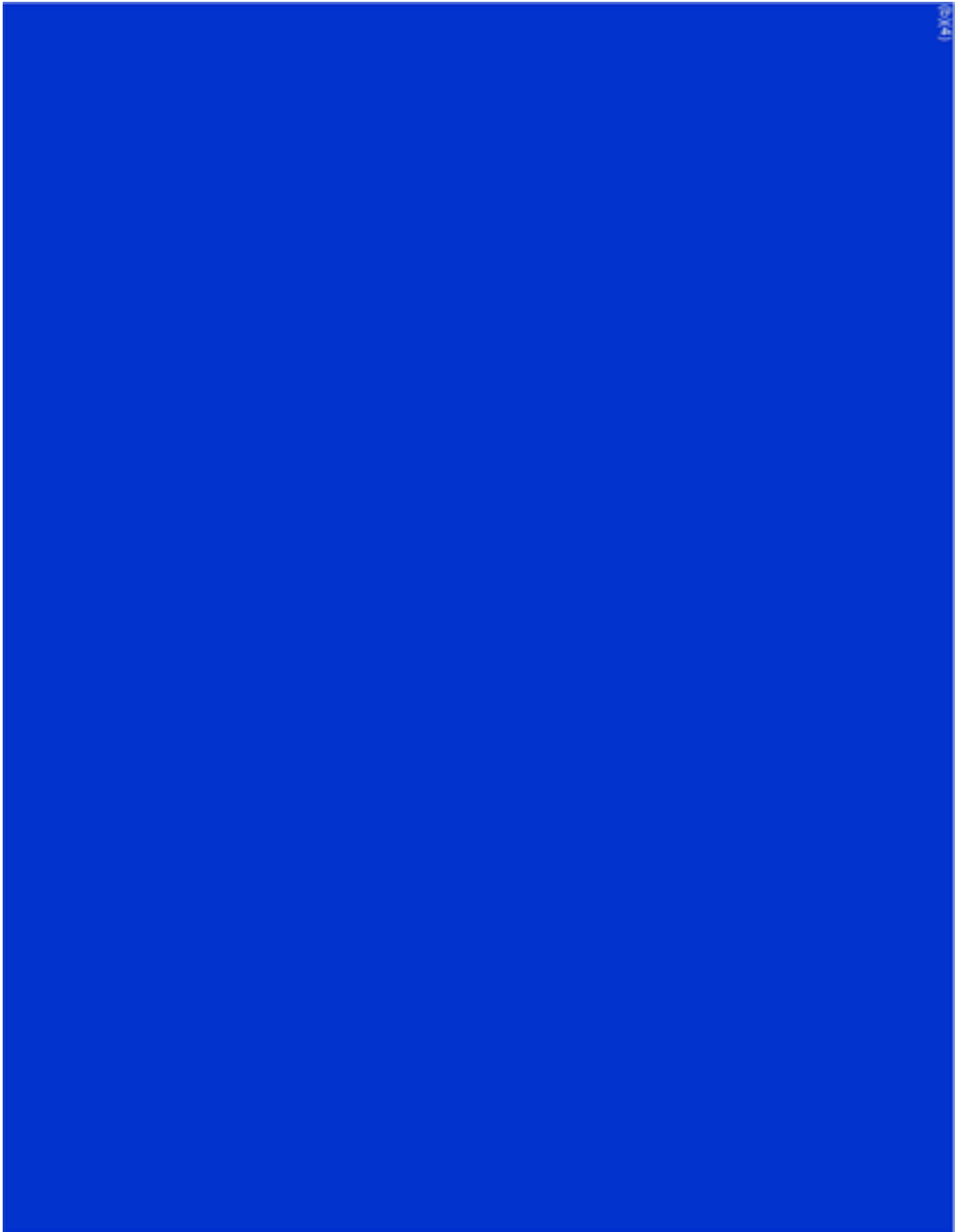
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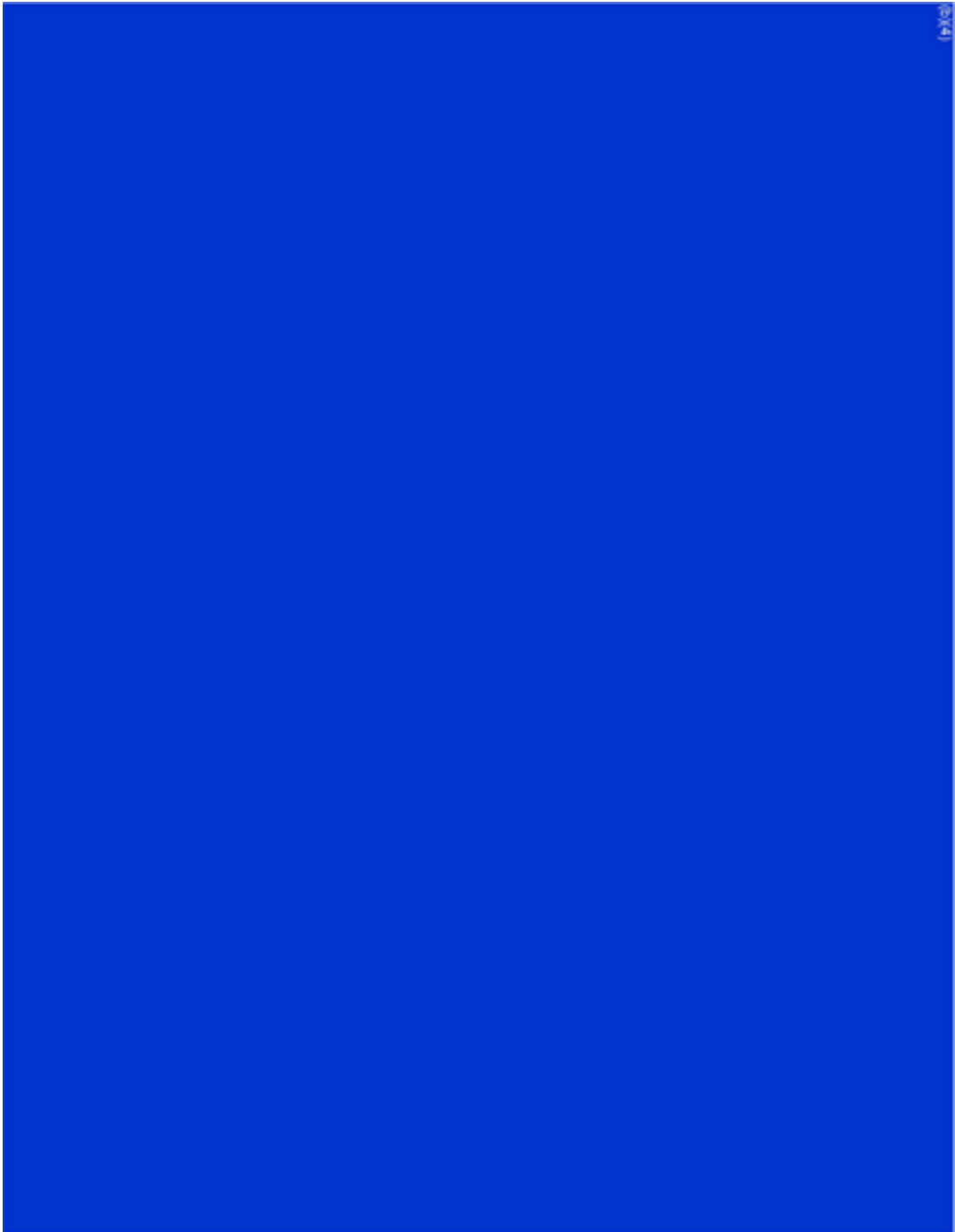
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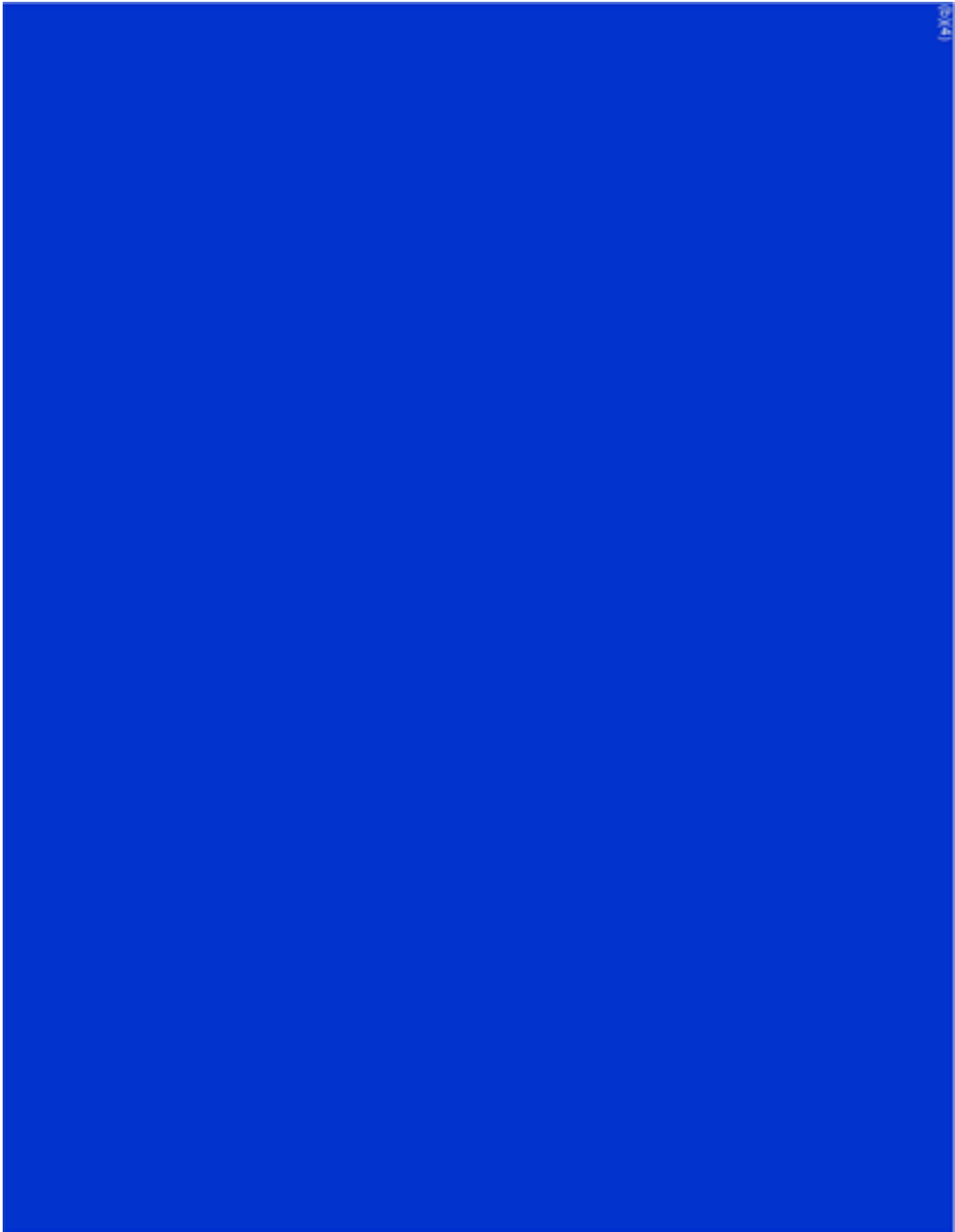




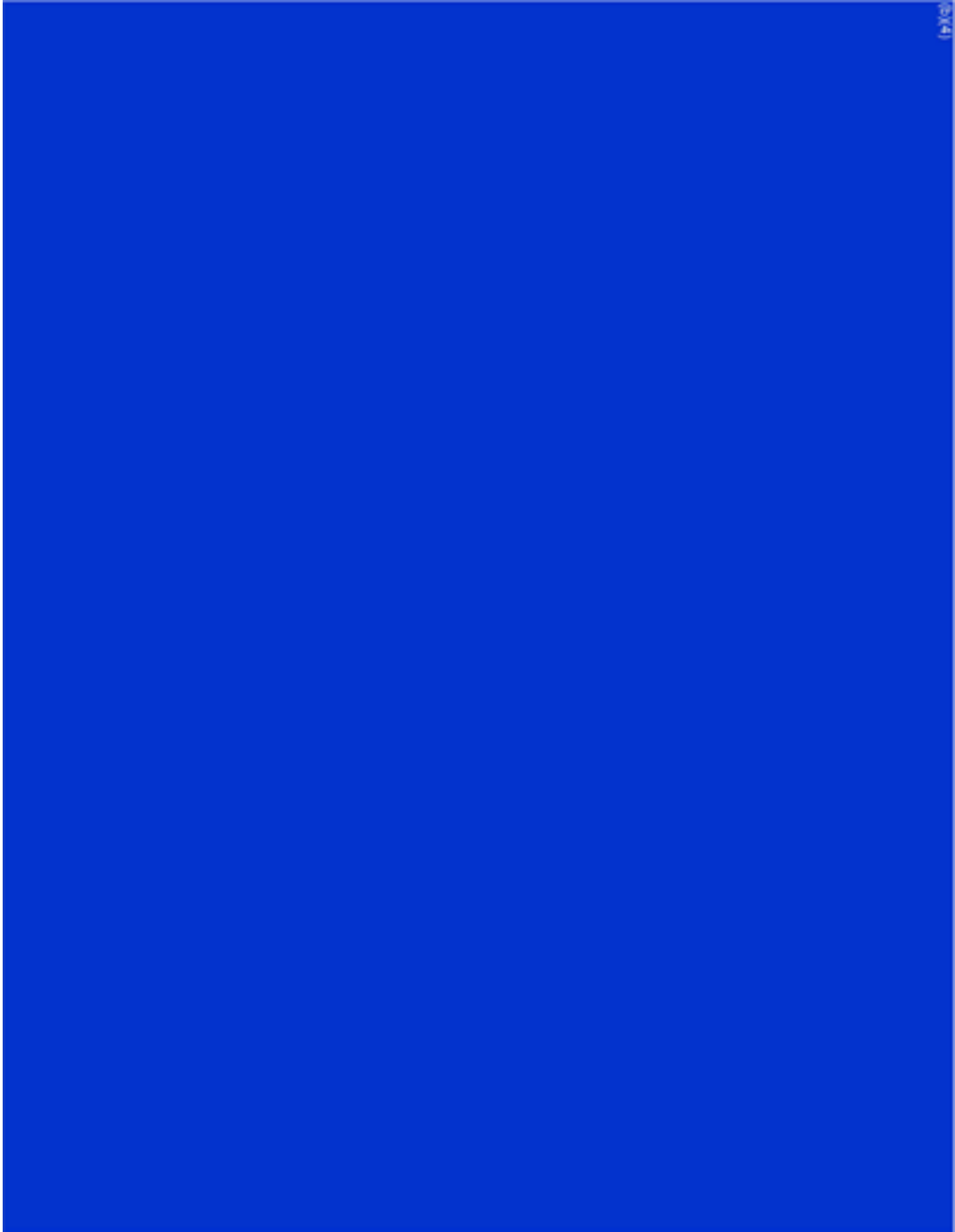
(b)(4)



(b)(4)



(b)(4)



(b)(4)



## APPENDIX E

# PERFORMANCE SCORES FOR FISCAL FOURTH QUARTER 2012 (JULY–SEPT. 2012)

Released January 2013

The U.S. Competitive Performance and Continuous Surveillance (CPCS) Score is an evaluation by Department of Education that determines how the share of new default accounts will be awarded, with the highest proportion awarded to the contractor with the highest CPCS score. The following table shows the CPCS Score and Dollar Amount Collected for each of the Department of Education's private collection agencies in the fourth quarter of fiscal year 2012 as the information was released in January 2013. In July 2014, following NCLC's Freedom of Information Act request and subsequent lawsuit, the Department of Education disclosed the CPCS Score and Dollar Amount Collected for all of FY 2012 (see Appendix A). Notably, the scores and amount collected for Q4 in that disclosure are different from those released in January 2013.

LARGE UNRESTRICTED CONTRACTORS		
PRIVATE COLLECTION AGENCY	CPCS SCORE	\$\$ COLLECTED
Pioneer Credit Recovery (Sallie Mae)	97.25	\$48,290,070
FMS Investment Corp.	94.63	\$41,605,960
ConServe	93.77	\$44,024,062
NCO Group	92.34	\$40,408,186
Van Ru Credit Corporation	90.85	\$42,299,205
GC Services LP	90.20	\$40,228,861
Premiere Credit of North America	86.99	\$35,413,534
Diversified Collection Services (Performant)	85.38	\$37,117,412
ERS	85.03	\$37,750,077
Progressive Financial Services	83.43	\$30,713,099
Account Control Technology	82.35	\$30,450,572
EOS-CCA(Collecto Inc.)	80.75	\$30,467,792
Allied Interstate (IQor)	79.89	\$31,518,780
Windham Professionals	78.89	\$29,055,468
CBE Group	68.84	\$24,676,897
Financial Asset Management	63.65	\$26,455,895
West Asset Management	60.27	\$20,344,094

## SMALL BUSINESS CONTRACTORS

PRIVATE COLLECTION AGENCY	CPCS SCORE	\$\$ COLLECTED
Coast Professional	100.00	\$21,970,309
Collection Technology, Inc.	78.83	\$17,835,486
National Recoveries	73.58	\$13,475,688
Immediate Credit Recovery	73.40	\$13,477,385
Delta Management Associates	61.08	\$11,834,522

Source: Patrick Lunsford, Full Results for ED Debt Collection Contract Q4 2012, *InsideARM* (Jan. 23, 2013).



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