

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
BID PROTEST

CONTINENTAL SERVICE GROUP, INC.,)	)	
	)	
Plaintiff,	)	
	)	
and	)	
	)	
COLLECTION TECHNOLOGY INC.,	)	
PROGRESSIVE FINANCIAL	)	
SERVICES, INC., and	)	
ALLTRAN EDUCATION, INC.	)	
	)	
Plaintiff-Intervenors,	)	
	)	
and	)	
	)	
PIONEER CREDIT RECOVERY, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 17-449C
	)	No. 17-499C
THE UNITED STATES,	)	(Consolidated)
	)	Chief Judge Susan G. Braden
Defendant,	)	
	)	
and	)	
	)	
CBE GROUP, INC.,	)	
FINANCIAL MANANGEMENT	)	
SYSTEMS, INC.,	)	
GC SERVICES LIMITED	)	
PARTNERSHIP	)	
PREMIERE CREDIT OF NORTH	)	
AMERICA, LLC,	)	
VALUE RECOVERY HOLDINGS, LLC,	)	
WINDHAM PROFESSIONALS, INC.,	)	
	)	
Defendant-Intervenors.	)	

**DECLARATION OF WILLIAM LEITH,**  
**CHIEF BUSINESS OPERATIONS OFFICER, FEDERAL STUDENT AID,**  
**UNITED STATES DEPARTMENT OF EDUCATION**

I, William Leith, Chief Business Operations Officer of Federal Student Aid, United States Department of Education, hereby make the following declaration in lieu of an affidavit, as permitted by Section 1746 of Title 28 of the United States Code. I am aware that this declaration will be filed with the United States Court of Federal Claims in connection with the bid protests filed by Continental Services Group, Inc. and Pioneer Credit Recovery, Inc., Fed. Cl. Nos. 17-449C and 17-499C; Account Control Technology, Inc., Fed. Cl. No. 17-493C; Alltran Education, Inc., Fed. Cl. No. 17-517C; Progressive Financial Services, Fed. Cl. No. 17-588C; Collection Technology, Inc., Fed. Cl. No. 17-578C; and Van Ru Credit Corporation, Fed. Cl. No. 17-633C, and any related cases or appeals. I also understand that this declaration is the legal equivalent of a statement under oath. This declaration is provided for the purpose of supporting a status report being filed by defendant. I make this declaration to the best of my knowledge and belief, based on my personal knowledge and information made available to me in my official capacity:

1. On August 2, 2017, the Court ordered the Government to provide a status report in these cases. In that order, the Court referenced two press releases of the Department of Education, one dated May 19, 2017, the other August 1, 2017.
2. In the May 19, 2017 press release, the Department announced amendments to the Federal Student Loan Servicing Solicitation (Solicitation No. ED-FSA-17-R-0001). A copy of that press release is attached as Exhibit A to this declaration.
3. In the August 1, 2017 press release, the Department announced the cancellation of that Federal Student Loan Servicing Solicitation, as the Department now intends to develop a new, enhanced Next Generation Processing and Servicing Environment. A copy of that press release is attached as Exhibit B to this declaration.
4. Neither of these press releases, nor the Federal Student Loan Servicing Solicitation to which they both relate, are at all related to the debt collection solicitation (Solicitation No. ED-FSA-16-R-0009) under which the private collection agencies (PCAs) will perform debt collection services. As explained below, the work to be performed under

Solicitation ED-FSA-16-R-0009 is different from loan servicing, involving an entirely separate procurement effort.

5. The Federal Student Loan Servicing Solicitation, now cancelled, was for managing loans which are *not in default*, meaning while the borrowers are in school, in the post-graduation grace period, or in repayment status. The Department contractors who perform that loan servicing work (commonly referred to as “loan servicers”) receive ‘booked’ loans after the funds are disbursed to students, contact borrowers once they are in the grace period (i.e., prior to beginning repayment of a loan) to determine the desired repayment plan, and set up payment methods. Once in repayment, the loan servicer contractors provide borrowers with billing statements, process payments, and offer services to borrowers such as processing changes to repayment plans, forbearance and deferments, and the like.
6. The work of the loan servicers is separate and distinct from the debt collection work that the PCAs perform under their respective contracts. PCA contractors perform services on only *defaulted* loans. By definition, these are loans which are extremely delinquent (payment is 360 days past due). Loans that are in such a state of delinquency are then assigned to the Department’s Debt Management Collections Systems where they are kept. Under normal circumstances (i.e., absent the Court’s injunction), PCAs are periodically assigned a number of such defaulted accounts. PCAs conduct ‘skip trace efforts’ to obtain contact information on borrowers, contact borrowers seeking to collect, explain various options available for curing the default, including loan rehabilitation programs, and set up rehabilitation payment plans. PCAs also process administrative wage garnishment procedures, if applicable.
7. In short, these two functions (loan servicing versus default collection), are substantively different and take place at different stages in the life of a loan. FSA acquires these two types of services using distinct and separate solicitations and contracts. Loan servicer contractors are assigned work from a pool of accounts distinct and separate from the pool of accounts the PCAs service. Attached as Exhibit C to this declaration is a chart listing the distinct activities performed by these two kinds of contractors.

8. The announcements made by the Department on May 19, 2017 and August 1, 2017 relate solely to loan servicing and therefore bear no connection to any PCA solicitation, contract, or to any issue presented in the cases before the Court.
  
9. The Department's cancellation of the Federal Student Loan Servicing Solicitation and its proposed development of the Next Generation Processing and Servicing Environment in no way impacts any corrective action currently underway on the PCA solicitation at issue in these cases, as such activities relate solely to loan servicing and not collection activities for defaulted student loans.

I declare under penalty of perjury that the foregoing is true and correct; executed this 4<sup>th</sup> day of August, 2017.

A handwritten signature in black ink, appearing to read "William Leith", is written over a horizontal line.

William Leith  
Chief Business Operations Officer  
Federal Student Aid  
United States Department of Education

# EXHIBIT A

**U.S. Department of Education  
Office of Communications & Outreach, Press Office  
400 Maryland Ave., S.W.  
Washington, D.C. 20202**

**FOR IMMEDIATE RELEASE**

May 19, 2017

Contact: Press Office

(202) 401-1576 or [press@ed.gov](mailto:press@ed.gov)

**U.S. Secretary of Education Betsy DeVos Releases Amended Federal Student Loan Servicing Solicitation U.S. Secretary of Education Betsy DeVos Releases Amended Federal Student Loan Servicing Solicitation**

Today, the U.S. Department of Education formally amended Phase II of the federal student loan servicing solicitation. The amendment maintains superior customer service and key borrower protections while ensuring the project stays on budget, saving taxpayers more than \$130 million over the next five years. The amendment further clarifies the Department's expectations of the eventual servicer and formally lists all requirements in the solicitation.

U.S. Secretary of Education Betsy DeVos issued the following statement on the new amendment:

"From day one, my priority as Secretary of Education has been to put students' needs first. This amended solicitation does just that. It maintains superior customer service and borrower protections while increasing oversight and protecting taxpayers.

"The federal student loan servicing solicitation we inherited was cumbersome and confusing—with shifting deadlines, changing requirements and de-facto regulations that at times contradicted themselves. Internal and external stakeholders both agreed it was destined for a massive and unsustainable budget overrun.

"In order to ensure the best outcome for federal student loan borrowers, it was necessary to rescind the previous guidance to free the Department to craft a solution that was more responsive to the needs of both customers and taxpayers.

"With changes in the new amendment, we have simplified the process to ensure meaningful borrower protections while saving taxpayers more than \$130 million over the next five years. Savings are expected to increase significantly over the life of the contract. Borrowers can expect to see a more user-friendly loan servicing interface, shorter email and call response times and an improved payment application method that will maximize the benefit of each payment the borrower makes. Our amendment makes no changes to repayment plan requirements.

"I am committed to helping students meet their repayment obligations and reaching their academic goals while also making government more effective and efficient."

The amendment published today is the ninth amendment to the Department's federal student loan servicing solicitation. Federal law and regulations governing the procurement process prohibited Department officials from commenting on the new amendment until it was formally published today.

FACT SHEET: Student Loan Servicing Re compete

The full amendment is available at:

<https://www.fbo.gov/index?tab=documents&tabmode=form&subtab=core&tabid=719f4f79f391241bfd02c15f36680081>

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# EXHIBIT B



**U.S. Department of Education  
Office of Communications & Outreach, Press Office  
400 Maryland Ave., S.W.  
Washington, D.C. 20202**

**FOR IMMEDIATE RELEASE**

Aug. 1, 2017

Contact: Press Office

(202) 401-1576 or [press@ed.gov](mailto:press@ed.gov)

**Secretary DeVos Announces Intent to Enhance FSA's Next Generation Processing and Servicing Environment**  
*Creating the Foundation of Tomorrow's Student Loan Program*

WASHINGTON—Today, U.S. Secretary of Education Betsy DeVos announced her intent to transform how Federal Student Aid (FSA) provides customer service to more than 42 million student loan borrowers.

“The FSA Student Loan Program represents the equivalent of being the largest special purpose consumer bank in the world,” said Dr. A. Wayne Johnson, the new Chief Operating Officer of Federal Student Aid (FSA). “To improve customer service, we will take the best ideas and capabilities available and put them to work for Americans with student loans. When FSA customers transition to the new processing and servicing environment in 2019, they will find a customer support system that is as capable as any in the private sector. The result will be a significantly better experience for students – our customers – and meaningful benefits for the American taxpayer.”

The anticipated FSA Next Generation Processing and Servicing Environment will provide for a single data processing platform to house all student loan information while at the same time allowing for customer account servicing to be performed either by a single contract servicer or by multiple contract servicers. This new approach is also expected to require separate acquisitions for database housing, system processing and customer account servicing which will allow for maximum flexibility today and into the future. FSA expects these contemplated changes to the servicing and processing environment to provide the opportunity for additional companies to submit proposals for contracting with FSA.

“Doing what’s best for students will always be our number one priority,” said Secretary DeVos. “By starting afresh and pursuing a truly modern loan servicing environment, we have a chance to turn what was a good plan into a great one.

“I hired Dr. Johnson for his extensive private sector expertise, his fresh perspective and his innovative thinking. After just a few weeks on the job, Wayne has already identified potential

ways to modernize FSA and to leverage new technology that will not only enhance the customer service experience for borrowers but will also protect taxpayers.”

Secretary DeVos recognizes the opportunities Dr. Johnson has identified to enhance FSA’s Next Generation Processing and Servicing Environment and accordingly the Department has cancelled the current student loan solicitation (Solicitation #ED-FSA-17-R-001).

Contracts with current FSA student loan servicers expire in 2019. Dr. Johnson and his team will have the new processing and servicing environment in place prior to the expiration of the current contacts.

You can view the Pronouncement on FSA’s Next Generation Processing and Servicing Environment [here](#).

You can view the Cancellation Notice [here](#).

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# EXHIBIT C

# Federal Student Aid Non-Default Loan Servicer vs. Debt Collection (PCA) Work

## Work of Loan Servicers

- ❖ Receive 'booked' loans after disbursed to student
- ❖ Manage loans while borrower is in school
- ❖ Once borrower enters grace period (grace period begins when borrower leaves school and lasts 6 months):
  - Contact borrower to determine desired repayment plan and set up payment method (auto-debit, provide payment address for checks, etc.)
  - Inform borrower when first payment is required
- ❖ Once borrower is in repayment:
  - Provide billing statements
  - Process payments
  - Conduct skip trace efforts to obtain contact info
  - Offer/process services such as:
    - Repayment plan change
    - Due date change
    - Discharge Reviews
    - Forbearances
    - Deferments
    - Bankruptcy activities
- ❖ Loans which are extremely delinquent (360 days) are assigned to the Department's separate Debt Management Collections System

## Work of Debt Collectors (PCAs)

- ❖ Borrowers in extreme delinquency status (once account is assigned to the Debt Management Collection Systems), are notified of impending collections
- ❖ If default not resolved, account is assigned to PCA
- ❖ Private Collection Agency services:
  - Outreach to borrower to collect payments
  - Set up rehabilitation arrangement
  - Assist with consolidation
  - Counsel on discharge options
  - Conduct skip trace efforts to obtain contact info
  - Identify incarcerated (uncollectible) accounts
  - Administrative Wage Garnishment (if applicable)
  - Recommend referral to Department of Justice for civil litigation