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Should the Education Dept. Start Collecting Its Own Debts?

10–13 minutes

Any day now, the Education Department will announce the awarding of millions of dollars in contracts to a slew of debt-collection companies that have been repeatedly accused of violating consumer-protection laws.

That troubles consumer advocates and some members of Congress, who are posing two key questions: Should the department really be hiring alleged lawbreakers to collect on defaulted federal student loans? If not, is it time for the agency to follow the lead of the Internal Revenue Service and bring debt collection back in house?

The chairman of the Senate education committee weighed in on those questions back in June, when he [introduced a bill](#) to reauthorize the Higher Education Act that would require the department to cancel any contracts with companies that are found to have violated federal law. The legislation, by Sen. Tom Harkin, Democrat of Iowa, would also require the secretary of education to justify the continued use of private debt collectors as “necessary to maintain the integrity of the loan program” and “in the best financial interest of the United States.”

In fact, the department does believe the contracts are in the best interest of taxpayers, said an official at the agency. But the official said the department would still consider bringing debt collection in house in the future, despite the costs.

Doing so would radically alter a thriving industry. From 2010 to 2013, the department doled out \$1.6-billion in compensation to the 22 companies that collect on federal loans. Over that period, payments to the companies increased fivefold, rising from \$128-million to \$687-million.

More than \$99-billion in federal student debt is now in default, with an additional \$45.4-billion delinquent, according to the latest federal data.

But as the amount of money in default has spiked, so have the student-loan-related complaints filed with federal regulators. The Federal Trade Commission received 600 such complaints against the department's collectors last year, more than three times the number it received in the 2009-10 year. The Consumer Financial Protection Bureau, which began collecting complaints only two years ago, has registered 468 student-loan-related complaints against the department's collectors.

Meanwhile, several of the department's collectors have settled

lawsuits filed by state and federal regulators over alleged violations of consumer-protection laws. Many of those lawsuits have involved other types of consumer debt, not student loans. But consumer advocates say that distinction is irrelevant.

“At a certain point, why are we hiring people that break the law, period?” asked Persis Yu, a lawyer with the National Consumer Law Center, a group that represents borrowers. “We should hold government contractors to a higher standard.”

The industry’s defenders say a lawsuit doesn’t necessarily mean that a company is a bad actor, and shouldn’t be a “litmus test” for federal contracts.

“The reality is that businesses from time to time can get in a legal skirmish about something,” said Robert L. Föehl, vice president and general counsel of ACA International, an association representing debt collectors. “Having a lawsuit as an absolute bar isn’t the way to go.”

Lax Oversight

Concern over the department’s oversight of its debt collectors goes back at least a decade. In a 2003 audit, the Education Department’s inspector general urged the agency to improve its monitoring of the companies.

The latest criticisms came in July and September, when reports from the inspector general questioned the agency’s handling of borrower complaints and accused officials of failing to ensure that collectors are safeguarding sensitive student-loan information. (See a timeline of complaints about the department’s oversight at the end of this article.)

The department says it has stepped up its oversight of the companies in the past year, re-establishing on-site reviews that it had abandoned because of budget constraints and competing priorities. The agency is working toward reviewing all companies on an annual basis, the official said.

But consumer advocates say that's not enough. Last month Ms. Yu's group released a report that accused the department of turning a blind eye to abuses by the companies and of disregarding borrower complaints against them. The report found no relationship between the number of complaints lodged against a company and its federal performance score, which determines how much future work it gets.

Instead, debt collectors are evaluated almost entirely upon the amount of money they collect. For example, the NCO Group, which has been sued by state and federal regulators, has been given the highest performance score several times in recent years. Over the past four years, it received nearly \$95-million in compensation from the government.

The report recommends that the department reform the evaluation system or eliminate the use of private collection agencies altogether.

The department says it takes borrower complaints seriously and investigates every one of them. If it finds evidence that the company has violated consumer-protection laws, it works with the company to correct the problem and "ensure any penalties imposed are commensurate with the violation itself," the official said.

Mr. Föehl argued that the complaint rate is minuscule,

representing less than 0.01 percent of collectors' contacts with defaulted borrowers. He criticized the consumer-protection bureau for failing to verify complaints in its online database or to provide any context for the numbers.

"Let's drill down into the numbers before we try to create some sort of public-policy solution to a problem that isn't extensive," he said.

Time to 'In Source'?

The Education Department has already chosen its "small business" debt collectors, awarding contracts to 11 companies last week. But the "unrestricted" contracts are the ones everyone is waiting for. More than 40 companies are vying for one of those contracts, including many firms that have settled with state and federal agencies over alleged consumer abuses.

David Bergeron, a longtime Education Department official who is now at the Center for American Progress, said the agency was between "a rock and a hard place" when it comes to choosing its debt collectors.

As a government agency, the department has to follow federal procurement law, which favors low-bid contracts with high rates of return. That drives the department to some companies "who we normally wouldn't want to hire to do this kind of work," he said.

The alternative is "less money recovered, at more cost to the taxpayer," he said. "And the IG wouldn't be happy about that, either. Nor, more importantly, would the Office of Management and Budget."

Which brings us back to Senator Harkin's question: Should the

department continue to work with private collectors?

Mr. Bergeron said the history of alleged abuses by the companies does “call into question whether you should be using outside debt collectors at all.”

The department actually tried bringing debt collection in house once before: During the Carter administration, it hired term employees to do the work. But the experiment lasted less than three years, and the employees were laid off during a budget crisis in the 1980s.

If the department tried again, it would be following in the footsteps of the IRS, which stopped using private collectors in 2009 after studies showed that the program recouped less than the agency could have collected on its own.

Mr. Bergeron doubts that the department could collect student loans more cheaply on its own. Still, he said, it’s the right thing to do.

“The system needs to be more generous to borrowers,” he said, “and less generous to contractors.”

Timeline: A History of Weak Oversight

For more than a decade, auditors and advocacy groups have been upbraiding the Education Department for its relationships with private debt-collection companies. Following is a brief history of their concerns.

December 2003: In an audit report, the Education Department’s inspector general faults the department for [failing to track borrower complaints](#) against the companies that collect debt on the

department's behalf. The report, which criticizes the department for failing to conduct audits and site visits of the companies, calls for the agency to step up its monitoring of the collectors.

February 2005: Another audit by the inspector general identifies [potential errors in incentive payments](#) that the department made to its debt collectors.

May 2012: An investigation by the National Consumer Law Center finds that debt collectors [do not maintain accessible complaint](#) systems and sometimes ignore the department's minimum requirements for handling borrower grievances.

March 2013: Bloomberg News reports that the Obama administration [will no longer reward collectors](#) for extracting higher payments from defaulted borrowers who are rehabilitating their loans. Under revised contracts, collectors receive the same commission, no matter the payment's size.

March 2013: An update by the National Consumer Law Center cites "[significant progress](#)" in the department's complaint collection process, but says some concerns linger.

May 8, 2013: An audit by the inspector general reveals that three debt collectors [did not report verbal complaints](#) to the Education Department.

May 15, 2013: Still another inspector-general audit finds that glitches in the department's online debt-management system have led to [potential overpayments to debt collectors](#).

March 2014: An investigation by the Government Accountability Office uncovers "[key weaknesses](#)" in the department's oversight of its debt collectors, including a failure to monitor conversations with

borrowers.

May 2014: The National Consumer Law Center sues the department, seeking documents related to its compensation and oversight of debt collectors. The center had previously requested the records under the Freedom of Information Act, but was effectively denied its request.

July 2014: The inspector general weighs in again, this time in an audit report criticizing the department's handling of complaints against its debt collectors. The audit [calls the agency lax](#) in its oversight of the companies.

September 2014: The latest report from the National Consumer Law Center concludes that the department evaluates its debt collectors based almost entirely on [the amount of money they collect](#), giving no consideration to the number of complaints lodged against a company.

September 2014: The inspector general accuses the department of failing to ensure that student-loan debt collectors and guarantors are [safeguarding sensitive student-loan information](#).