

EXHIBIT 4



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

Office of the Chief Privacy Officer

March 4, 2016

Dennis D. Parker
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, NY 10004

RE: FOIA Request No. 15-01440-F

Dear Mr. Parker:

This is an interim response to your request dated May 7, 2015, requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, which was received in the FOIA Service Center (FSC) on May 11, 2015.

Your request sought:

Request #1: Any corrective action plan created by the Department in response to the Final Audit Report of the U.S. Department of Education Office of Inspector General issued in July 2014, see U.S. Dep't of Educ. Office of Inspector General, ED-OIG/A06M0012, Handling of Borrower Complaints Against Private Collection Agencies, Final Audit Report 1-2 (2014) ("the OIG Report").

Request #2: Any report, correspondence, or other information submitted to Congress, including but not limited to any individual member of Congress or any Congressional committee or sub-committee, in response to the OIG Report or that references the OIG Report.

Request #3: All correspondence with any private collection agency ("PCA") regarding any interpretation, meaning, or proposed revisions of the Department's regulations, guidance, policies, or manuals.

Request #4: All policies, procedures, guidelines, or similar documents currently in effect concerning the calculation, assessment, or determination of collection fees charged to borrowers by the Department or any entity acting on behalf of the Department, including but not limited to factors used to determine whether collection fees will be added to loan balances and formulas used to calculate fee amounts.

Request #5: All policies, procedures, guidelines, or similar documents currently in effect concerning the circumstances under which a PCA may initiate, or cause the Department to initiate, administrative wage garnishment, pursuant to 20 U.S.C. § 1095a or any other authority.

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Request #6: All policies, procedures, guidelines, or similar documents currently in effect concerning the circumstances under which a PCA may initiate, or cause the Department to initiate, an administrative offset, pursuant to 34 C.F.R. §§ 30.21-30.31, 682.410 or any other authority.

Request #7: All policies, procedures, guidelines, or similar documents currently in effect concerning the circumstances under which a PCA may initiate, or cause the Department to initiate, a tax refund offset, pursuant to 34 C.F.R. § 30.33 or any other authority.

Request #8: All documents indicating the number of borrowers subject to administrative wage garnishment, administrative offset, or tax refund offset between January 1, 2012 and the date of this Request. This should include but not be limited to all documents indicating the number of administrative wage garnishments, administrative offsets, or tax refund offsets undertaken on the Department's behalf by each PCA engaged by the Department.

Request #9 All documents indicating the dollar amounts collected through administrative wage garnishment, administrative offset, or tax refund offset between January 1, 2012 and the date of this Request. This should include but not be limited to all documents indicating the dollar amounts collected through administrative wage garnishments, administrative offsets, or tax refund offsets undertaken on the Department's behalf by each PCA engaged by the Department.

Request #10: All documents reflecting any analysis, investigation, or review of the collection methods used by any PCA, individually or in the aggregate, including but not limited to, decisions by PCAs to pursue any particular resolution with a borrower (e.g., rehabilitation, consolidation, cancellation, administrative wage garnishment, administrative offsets, or tax refund offsets) and the frequency with which those collection methods are used.

Request #11: All policies, procedures, guidelines, or similar documents reflecting how the Department determines whether its collection policies result in an adverse impact to particular racial groups.

Request #12: All data collected or maintained by the Department reflecting the absolute number or percentage, by race, of borrowers whose student loans become delinquent or are in default.

Request #13: All data collected or maintained by the Department reflecting the absolute number or percentage, by race, of borrowers with delinquent or defaulted loans who are thereafter subject to the following collection methods:

- a. Rehabilitation;
- b. Consolidation;

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- c. Cancellation;
- d. Administrative Wage Garnishment;
- e. Administrative Offsets; or
- f. Tax Refund Offsets

Request #14: All documents generated between January 1, 2012 and the date of this request concerning the process through which the Department selects entities to engage as PCAs. This includes but is not limited to all documents used in the procurement of Default Collection Services (solicitation number: ED-FSA-13-R-0010) to select entities to advance to Phase II of the procurement process or for final award of the PCA contract.

Request #15: Documents sufficient to show the number of administrative wage garnishments initiated between January 1, 2012 and the date of this Request, pursuant to 20 U.S.C. § 1095a and its implementing regulations or any other authority, whether initiated directly by the Department, a PCA, or any other entity acting on the Department's behalf.

Request #16: All documents reflecting administrative wage garnishment proceedings initiated between January 1, 2012 and the date of this Request in which the borrower raised an objection to the wage garnishment, and all records of the resolution of the asserted objection.

Request #17: Documents sufficient to show the number of administrative offsets and tax offsets initiated between January 1, 2012 and the date of this Request, pursuant to 31 C.F.R. §§30.20-30.35 or any other authority, whether initiated directly by the Department, a PCA, or any other entity acting on the Department's behalf.

Request #18: All documents reflecting administrative offset proceedings initiated between January 1, 2012 and the date of this Request in which the borrower raised an objection to the offset, and records of the resolution of the asserted objection.

Request #19: Documents sufficient to show the fees, commissions, or other forms of remuneration received by each PCA between January 1, 2012 and the date of this Request for each instance in which it resolved a purported default using the following methods:

- a. Rehabilitation;
- b. Consolidation;
- c. Cancellation;
- d. Administrative Wage Garnishment;
- e. Administrative Offsets; or
- f. Tax Refund Offsets

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Request #20: All monthly "Contractor's Management and Fiscal Report[s]," as provided for in the Department's Default Collection Contract Statement of Work PCA Periodic Contract, containing borrower complaint information submitted by each PCA to the Department between January 1, 2012 and the date of this Request.

Your request was forwarded to the appropriate office within the Department of Education (the Department) for any responsive documents they may have.

By email dated December 3, 2015, staff in Federal Student Aid (FSA) provided an initial response to you that contained a 5mb zip file consisting of two documents. Specifics of those documents are provided below.

With this interim release, the Department is providing to you 1,723 pages of documents responsive to your request. However, certain information has been withheld according to the FOIA exemptions specified below:

- Records or portions of records relating to an applicant's budget information are exempt from disclosure pursuant to 5 U.S.C. § 552 (b)(4) of the FOIA and Departmental regulation § 5.71(b). These provisions require us to withhold proprietary information, which, if disclosed, is likely to cause substantial competitive harm
- Records or portions of records relating to personal information is exempt pursuant to 5 U.S.C. § 552 (b)(6) of the FOIA. Disclosure of this information would constitute a clearly unwarranted invasion of personal privacy.
- Records or portions of records relating to personal information that was compiled for a law enforcement purpose is exempt pursuant 5 U.S.C. §552 (b)(7)(C) of the FOIA. Disclosure of this information would constitute an unwarranted invasion of personal privacy.

Documents Provided

For item #1: A redacted copy of the **Internal Report: Corrective Action Plan**, dated August 25, 2015 is being provided here within.

For item #2: **No responsive documents** were found in a search of e-mail archives and other correspondence records.

For item #3: The Department has identified 33 pages of responsive documents and is still currently working to fulfill this request item.

For item #4: Pending Review.

- **Private Collection Agency Training – Titanium (a.k.a. DMCS Participants Manual for PCAs)**
- **FSA Participants Manual (a.k.a. DMCS Participants Manual for FSA)**

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- **Administrative Wage Garnishment (AWG) Hardship Calculator (MS Excel file)**
- **PCA Contract Documentation**
- **The PCA Procedures Manual**

For item #5: Pending Review.

- **Private Collection Agency Training – Titanium (a.k.a. DMCS Participants Manual for PCAs)**
- **FSA Participants Manual (a.k.a. DMCS Participants Manual for FSA)**
- **AWG Hardship Calculator (MS Excel file)**
- **PCA Contract Documentation**
- **RoboHelp Procedures**

For items #6 and #7: In a December 9th e-mail to Ann Marie Pedersen, you asked whether there were any responsive records for items addressing administrative offset. The records and figures provided for the Treasury Offset Program represent all of Federal Student Aid’s administrative offset activity and there are no additional figures or documentation related to any other form of administrative offset that would be responsive to this request. To further clarify, the Treasury Offset Program (TOP) is the only process through which Federal Student Aid exercises administrative offset authority. Federal Student Aid does not exercise administrative offset through any other means.

Also, PCAs don’t initiate or cause ED to initiate Treasury offsets and PCAs get no payment from Treasury offsets. ED has system checks for defaulted debt and Debt Collection Improvement Act (DCIA) eligibility criteria and any defaulted debts that meet the DCIA eligibility criteria are placed into TOP. DCIA does allow Treasury to collect an administrative fee to cover the costs of administering TOP.

You also ask what is included in rows labelled “Treasury offset.” ED does not control the sources of the payment streams subject offset. The DCIA does that. ED is required by the Debt Collection Improvement Act (31 USC 3711 et seq) to use the administrative offset authority (commonly referred to as Treasury Offset Program (TOP)) to collect on defaulted debts owed to ED that meet the eligibility requirements of the DCIA. The specific section you cited, 31 U.S.C. § 3716(c)(3)(A), references three specific types of Federal payments, that Treasury, as the Department with responsibility for the TOP program, must offset.”

For item #8: We **provided the requested data**, based on the number of borrowers for whom a garnishment or Treasury offset was posted as payment to the account in our *December 3, 2015 release*.

For item #9: Monthly National Summary Reports, this information was provided in our *December 3, 2015 release*.

For item #10: A **sample of call monitoring reports** from September 2015 is being provided here within and will continue to work with you to fulfill this request item.

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For items #11, #12, and #13: FSA does not track race or data related to race, so **no such data, policies, procedures, or guidelines exist** that would fulfill this request..

For item #14: FSA has identified the following responsive documents which are pending review and redactions:

- Source Selection Criteria for Phase II and Final Selection
- Past Performance Questionnaire for Phase II and Final Selection

For item #15: We **provided the requested data**, based on the number of borrowers that were marked for initiation of administrative wage garnishment (AWG) in FSA's debt collection system. This information was provided in our *December 3, 2015 release*.

For item #16: We **provided the requested data**, based on the number of AWG hearings requested and the number of favorable and unfavorable determinations for those hearings. This information was provided in our *December 3, 2015 release*.

For items #17 and #18: We **provided the requested data**, based on the number of borrowers marked for initiation of or on-going Treasury offset in FSA's debt collection system. As explained for items #6 and #7, these figures represent all of FSA's administrative offset activity and there is no additional data for administrative offset. This information was provided in our *December 3, 2015 release*.

For item #19: We **provided the requested data** for October 2011 and onward. Due to system limitations, we are not able to isolate the data between October 2011 and January 2012, so it is included. PCAs also receive incentive payments, but we have not provided data on incentive payments, because the data is only available as sum totals and cannot be parsed out according to the collection method used. As previously explained for items #6 and #7, data provided for Treasury offset represents all administrative offset activity. This information was provided in our *December 3, 2015 release*.

For item #20: A sample of monthly Contractor's Management and Fiscal Reports for September 2015 is being provided here within and will continue to work with you to fulfill this request item.

At this time, the Department is continuing to process your request and your FOIA request case file remains open. It will not close until the Department provides you with a response regarding outstanding responsive documents. Additionally, our final release letter will contain information related to your appeal rights of the agency's decisions

Sincerely,

Robert Wehausen

Robert Wehausen
Team Lead
FOIA Service Center