Promoting Better Loan Servicing for Student and Parent Borrowers

Since 2009, the U.S. Department of Education has used not-for-profit (NFP) and for-profit organizations to provide important services to student and parent borrowers with loans made under the William D. Ford Federal Direct Loan Program. Many of these organizations also service loans made under the federal guaranteed student loan program and education loans made by private providers.

The Department has contracts with nine NFP and for-profit organizations who service the Direct Loan portfolio of over 30 million borrowers. Four of the servicers, the Title IV Additional Servicers or TIVAS, signed original contracts in 2009 and have an overwhelming majority of borrower accounts. The five NFP servicers signed their contracts in 2011 and 2012; each servicer initially received 100,000 borrower accounts, though some organizations formed 'teams' which allowed them to increase their loan volume. The Consolidated Appropriations Act, 2014, required the Department to establish common performance metrics across all student loan servicers. The Consolidated Appropriations Act, 2016, required the Department to allocate new Direct Loan accounts among the student loan servicers on the basis of their performance and capacity. Under the current process, the Department evaluates each servicer quarterly based on a common set of performance metrics: (1) the percentage of borrowers in current repayment status (defined as making their loan payment within 5 days of the established due date); (2) the percentage of borrowers more than 90 but less than 271 days delinquent; (3) the percentage of defaulted borrowers (over 270 days and less than 361 days delinquent); (4) borrower survey results; and (5) Federal Student Aid (FSA) employee survey results. The result is designed to incentivize servicers to help all borrowers select the best repayment option for them and to provide enhanced customer service for student and parent borrowers at all stages of the student loan life cycle. The Consolidated Appropriations Act, 2017, required the Department to allow all of its student loan servicers to originate and service consolidation loans. Previously, NFP services were not allowed to offer consolidation loans, forcing borrowers interested in obtaining such a loan to switch to a new servicer even if they were happy with the performance of their NFP servicer, thereby creating confusion and denying consumer choice.

The current competitive structure - using a mix of state and nonprofit and national for-profit organizations - promotes high levels of customer service; establishes a benchmark for quality servicing; protects the interests of the federal government while providing important localized services to borrowers; and saves taxpayers money. The student loan servicing system is <u>not</u> broken. The nation's student loan servicers provide an array of important, high-quality services to student and parent borrowers at minimal cost to the federal government.

In May 2017, the Department issued a revised Request for Proposals (RFP) on student loan servicing centered on establishing common branding and common servicer practices, improving customer service through fewer borrower transfers, and improved oversight, data collection, and analysis. The RFP, which would create one of the largest civilian contracts across the federal government, proposes to select a single student loan servicer, which will operate a single platform where all federal student loans will reside and where borrowers can access and manage their loans. Unlike the previous RFP released by the Obama Administration, the new solicitation does not call for utilizing a network of customer service providers to carry out the new requirements. In July 2017, three offerors submitted final proposals to be reviewed by the Department with a potential bid being awarded by October 1, 2017. However, a protest was filed with the Government Accountability Office (GAO), which is responsible under federal procurement law with reviewing federal contracts.

NCHER Reform Proposals

The National Council of Higher Education Resources (NCHER) supports the important and successful work of the nation's student loan servicers in helping student and parent borrowers repay their loans. We urge Congress to promote better loan servicing for student and parent borrowers by:

- Opposing the current procurement and ensuring that it has meaningful and sustainable opportunities for state and nonprofit organizations to help struggling borrowers. As noted above, the Department issued an RFP that includes major changes to student loan servicing, but fails to promote a competitive environment or leverage the role of state and nonprofit servicers in helping struggling borrowers. The Department should find ways to leverage the expertise and quality service of state and nonprofit organizations as part of the current competition for loan servicing as contemplated by Congress back in 2010. A truly competitive framework, paired with a single portal, common procedures manual, and ability for borrowers to choose their student loan servicer, would address many of the shortcomings that have been identified in the student loan servicing system over the last few years.

- Promoting the use of state and nonprofit organizations with expertise in helping student and parent borrowers. With federal student loan debt totaling nearly $1.3 trillion and with unacceptably high delinquency and default rates, it is clear that student and parent borrowers need access to more specialized support services to help them understand their postsecondary education options. State and nonprofit higher education agencies, including lenders, loan holders, servicers, and guaranty agencies, have been highly successful in providing these important services for decades. The Consolidated Appropriations Act, 2017 included language directing the Department to put together a plan under which it will give credit for subcontracting with small businesses, including state and nonprofit organizations with expertise in assisting borrowers in the repayment of their student loan. Congress should build upon the language during the upcoming reauthorization of the Higher Education Act to enhance the role of state-based organizations, such as by making clear that the definition of 'small business' in the student loan servicing context includes state and not-for-profit entities so student loan servicers receive credit for subcontracting for services with these organizations.

- Ensuring there are common performance metrics across all servicers. Over the last three years, the House and Senate Appropriations Committees have directed the Department to establish common performance metrics across all student loan servicers and allow all of its student loan servicers to originate and service consolidation loans. Congress should codify this language in the reauthorization of the Higher Education Act, allowing for an open competition between multiple servicers that will improve the quality of servicing for all borrowers.

- Ensure federal law and contractual requirements preempt state and local rules that impact federal student loan servicing and collections. Over the last two years, several states have passed laws requiring student loan servicers to obtain licenses to service loans to borrowers in their state, and more are considering doing so. Unfortunately, the new laws impose regulatory requirements on federal student loan servicers that are contrary to those under the Higher Education Act. For example, California's Student Loan Servicing Act mandates that servicers notify the borrower who their servicer is, even though the current procurement mandates that borrowers be notified that their servicer is the U.S. Department of Education. The new laws on loan transfer notifications are also contrary to those requirements included in federal regulations, which will be confusing to student and parent borrowers who will receive two notices with different information and instructions. There will be additional disruption if a state pulls the licenses of the federal student loan servicers, all of whom have loans from students randomly assigned by the Department. The new laws would also negatively impact many small, state-based organizations who operate education loan programs established by their state legislatures to promote college access in their states, but whose borrowers move to other states. These servicers would be required to meet significant regulatory requirements, even though they have few impacted borrowers. Congress should provide for the preemption of state student loan servicing laws that overlap with federal requirements, reducing confusion to student and parent borrowers.

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