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August 8, 2016

The Honorable John King
Secretary
U.S. Department of Education
400 Maryland Ave, SW
Washington, D.C. 20202

Dear Secretary King:

To address "the inability of the Department of Education to adequately manage" student financial aid, Congress designated the Office of Federal Student Aid (FSA) as a performance-based organization.¹ In exchange for greater operational flexibility, FSA is expected to deliver performance-driven results and improved service and accountability. In reviewing reports published by the Government Accountability Office (GAO) and the Department of Education's Office of Inspector General (Inspector General), as well as engaging with industry stakeholders, we are increasingly concerned FSA is not meeting its responsibilities under the law. Due to these ongoing concerns, we write to request additional information on the Department's single servicing proposal.

The Committee held a joint hearing with the Committee on Oversight and Government Reform on November 18, 2015. At the joint hearing, members examined numerous management challenges plaguing FSA. These challenges include an ineffective and inefficient procurement process, insufficient oversight of contractors, improper security of sensitive information, and an inability to act as an equal partner with stakeholders. Remarkably, these challenges have persisted for years and at a time when the volume of student loans has risen exponentially.

In March 2014, GAO released a report entitled "Federal Student Loans: Better Oversight Could Improve Defaulted Loan Rehabilitation." The report highlights how the Department selected a contractor with documented unreliable service to upgrade the Debt Management and Collection Service and then failed to conduct appropriate oversight of the contractor. This limited planning and oversight ultimately meant the Department was "unable to provide most borrowers who

¹ <https://www.congress.gov/congressional-report/105th-congress/house-report/481/1>

completed loan rehabilitation with timely benefits, such as removing defaults from their credit reports, for more than a year following the October 2011 upgrade.”²

There are also well-documented issues with the ability to manage servicing contracts. In November 2015, GAO provided testimony entitled “Federal Student Loans: Key Weaknesses Limit Education’s Management of Contractors.” The testimony warns that guidance to loan servicers is lacking, resulting in inconsistent and inefficient services to borrowers. GAO also found weaknesses in the call monitoring and documentation process — a key oversight activity.

In May 2016, GAO released another report entitled “Federal Student Loans: Education Could Improve Direct Loan Program Customer Service and Oversight.” The report demonstrates how poor decision-making negatively impacts students. The report states that a lack of minimum standards makes it challenging for some borrowers to contact their servicers by telephone and compensation metrics do not fully align with the Department’s goal for superior service and program integrity.

The Inspector General has documented similar failings. In December 2008, the Inspector General issued a final audit report entitled “Federal Student Aid’s Performance as a Performance-Based Organization.” The report documents how FSA was not fulfilling its planning and reporting responsibilities, was hindered in integrating student financial systems, and made uncertain progress towards the reduction of administrative costs.

Furthermore, in 2012, the Inspector General was the first to identify more than \$1 billion in defaulted loans that could not be rehabilitated due to contractor issues that were not addressed. Two subsequent audits released in August and November 2015 found FSA failed to develop an adequate monitoring plan to ensure the contractor delivered an operational system; to hold the contractor accountable for missing performance deadlines; and to accurately assess the operational status of various aspects of the system.

Weaknesses in information technology (IT) security are another persistent problem experienced at the Department. The Inspector General released a report in November 2015 entitled “The U.S. Department of Education’s Federal Information Security Modernization Act of 2014 Report for Fiscal Year 2015.” The report portrays a systematic pattern of IT security shortcomings in a time of increased cybersecurity threats. The Inspector General warned the Department continues to be vulnerable to security threats and is not meeting all the reporting metrics required under the *Federal Information Security Management Act*, raising serious questions about the Department’s ability to identify and prevent cybersecurity threats.

In fact, the Inspector General has labeled IT security a management challenge for the Department for the last three years. A representative from GAO testified before Congress on November 17, 2015, and said:

² <http://www.gao.gov/assets/670/661437.pdf>

Inspectors general for 23 of 24 agencies, including Education, cited information security as a major management challenge. In prior reports, GAO and inspectors general have made thousands of recommendations to agencies to address deficiencies in their information security controls and weaknesses in their programs, but many of these recommendations remain open.³

The Committee has also heard directly from stakeholders about management challenges at FSA. Based on concerns brought to the Committee's attention, we asked the National Association of Student Financial Aid Administrators (NASFAA) to conduct a survey of institutions regarding their experiences.⁴ The survey results reaffirm long-standing concerns and demonstrate how FSA has strained its working partnership with institutions and undermined the ability of institutions to best serve students.

For example, the information revealed that "tension has been exacerbated by a double standard where schools are required — and in some cases threatened — to meet aggressive and often unrealistic deadlines, while [the Department] continually falls short of meeting their own timelines."⁵ At the time of the survey, 10 percent of respondents had been waiting more than 18 months to receive final program review reports. Additionally, 12 percent were waiting for approval of program participation agreement changes to add new programs, which can delay the disbursement of aid to students in these programs.

Equally alarming are survey results that indicate the significant impact bureaucratic delays have on the internal operations of institutions and their ability to serve students. As the survey's conclusion notes, "comments from NASFAA members indicate that schools feel silenced and even intimidated by these delays for fear of reprisal from FSA if they inquire or complain too often or too loudly."⁶

Given FSA's failures in contract procurement, management, and oversight, as well as its demonstrated inability to meet statutory requirements as a performance-based organization and maintain proper IT security, we are concerned with the Department's April 4, 2016, solicitation calling for a "single servicing solution" for federal student loans. Members of Congress have called for a common manual for servicers to address the concerns the Department cites as reasons for the "single servicing solution." However, the Department has rejected these calls, and instead, it is moving forward with an initiative that lacks the necessary details to determine whether a project of this magnitude is even feasible. Based on the repeated failures we have just described, we have no confidence in the Department's ability to complete this project without delay, service interruptions, and harm to borrowers.

³ Information Technology: Department of Education and Other Federal Agencies Need to Better Implement Controls. November 17, 2015. Statement of Gregory C. Wilshusen, Director, Information Security Issues.

⁴ https://www.nasfaa.org/news-item/8576/NASFAA_Submits_FSA_Survey_Results_to_Congress

⁵ https://www.nasfaa.org/uploads/documents/NASFAA_FSA_Survey_Results.pdf

⁶ https://www.nasfaa.org/uploads/documents/NASFAA_FSA_Survey_Results.pdf

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On a conference call on June 30, 2016, Department staff provided Committee staff with a brief update on the solicitation process and offered additional briefings to further discuss the solicitation. We request a briefing for Committee staff to discuss the details of the proposal, the expected benefits, and the plan in place to avoid the pitfalls of FSA's previous contracting issues. Please have your staff contact Jenny Prescott jenny.prescott@mail.house.gov or Clint Raine clint.raine@mail.house.gov with the Committee at (202) 225-6558 to schedule a briefing by August 22, 2016.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



VIRGINIA FOXX
Chairwoman
Subcommittee on Higher Education and
Workforce Training