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FEDERAL STUDENT AID: PERFORMANCE-BASED ORGANIZATION REVIEW

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT OPERATIONS

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

AND THE

SUBCOMMITTEE ON HIGHER EDUCATION ON WORKFORCE TRAINING

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

HOUSE OF REPRESENTATIVES

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FEDERAL STUDENT AID: PERFORMANCE–BASED ORGANIZATION REVIEW

Wednesday, November 18, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT OPERATIONS,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM, JOINT WITH THE SUBCOMMITTEE ON HIGHER EDUCATION AND WORKFORCE TRAINING, COMMITTEE ON EDUCATION AND THE WORKFORCE,
Washington, D.C.

The subcommittees met, pursuant to call, at 9:06 a.m., in Room 2154, Rayburn House Office Building, Hon. Mark Meadows [chairman of the Subcommittee on Government Operations] presiding.

Present from the Subcommittee on Government Operations: Representatives Meadows, Jordan, Walberg, Mulvaney, Buck, Carter, Chaffetz, Connolly, Maloney, Clay, Plaskett.

Present from the Subcommittee on Higher Education and Workforce Training: Representatives Foxx, Guthrie, Messer, Curbelo, Stefanik, Allen, Kline, Scott, Hinojosa, Jeffries, Adams, DeSaulnier, and Courtney.

Mr. MEADOWS. The Subcommittee on Government Operations of the Committee on Oversight and Government Reform and the Subcommittee on Higher Education and Workforce Training of the Committee on Education and the Workforce will come to order.

And, without objection, the chair is authorized to declare a recess at any time.

Today, we gather to review the Federal Government's first performance-based organization, the Office of Federal Student Aid.

In 1998, amendments to the Higher Education Act transformed FSA into a Federal experiment, one that many don't realize is still ongoing. Driving this transformation was an idea that innovation would foster by bringing private-sector talent into the government, giving that talent independence from the parent agency, providing generous compensation, and then holding that talent accountable.

Today's goal is simple. We are going to evaluate FSA's performance since it was granted these responsibilities and flexibilities.

There is no doubt that FSA is tasked with a far greater responsibility today than ever could have been imagined or anticipated in 1998. The Federal Student Aid system is vast, complex, and growing.

In 1998, the Free Application of Federal Student Aid was just being put on the World Wide Web. Today, FSA processes over 22 million applications annually, and 99 percent of those applications are processed electronically.

In 1998, 3.8 million Pell grants were awarded annually, costing $6.7 billion. Today, it is 8.3 million Pell grants that are awarded by FSA annually, costing close to $32 billion.

In 1998, FSA owned and managed $45 billion in Direct Loans outstanding principals, and the other $150 billion was funded and owned by a public-private partnership in the FFEL program. Today, FSA owns and manages a staggering amount of $1.18 trillion in Federal assets.

Now, while FSA's responsibility has increased dramatically, there has not been an increase in accountability. Let's be clear: Congress has not done its part. We created this thing, and then walked away. Congress has only called the FSA's Chief Operating Officer, the owner of the PBO, to testify three times since 2010. This entire enterprise was set up for oversight, but in the halls of Congress we need to do better.

Now, while I acknowledge Congress has to do its part, let me be clear: FSA is failing to live up to its side of the deal, as well. One only needs to consider the inspector general's recent "Management Challenges" report for evidence that FSA is failing to deliver. Each challenge the IG flagged this time around was raised in last year's report, as well.

And these are not insignificant challenges but mission-critical areas that FSA must manage effectively. These areas include: improper payment reporting, oversight and monitoring, and IT system development and implementation, of which we heard in this very room yesterday some of the challenges there. And I'm concerned that FSA made significant progress to be removed from the GAO's high-risk list in 2005, but now it's backsliding.

And I'm doubly concerned about the culture being fostered by FSA. We will hear from school stakeholders today that the working relationship with FSA has become so strenuous that it is having an adverse effect on, ultimately, those people that they should be serving: the students.

During the committee's hearing yesterday, the Department received an F—an F—for its failure to effectively secure the personal information of millions of students across the country. Today, I suspect Washington may receive an F for allowing the Office of Federal Student Aid to expand into higher education. I'm not convinced it's been a healthy endeavor for students, parents, or taxpayers.

But I look forward to hearing from our witnesses today and now turn to the ranking member, the gentlewoman from New York, Mrs. Maloney, for her opening statement.

Mrs. MALONEY. Thank you so very much, Mr. Chairman, for calling this important hearing.

As I understand it, the goal of today's hearing is to examine the Office of Federal Student Aid within the Department of Education. FSA is what is known as a, and "performance-based organization." These entities have greater independence from the other agencies, more flexible hiring authority, and additional contracting flexibility. And they generally are more siloed from the rest of the other agencies.

Some have suggested that this was a Clinton administration decision. In fact, the Clinton administration proposed this concept for

the Department of Commerce, but it was Congress that created FSA within the Department of Education as a performance-based organization in 1998.

The primary sponsors in the House of Representatives of the legislation creating it as a performance-based organization were Representative Buck McKeon, Representative William Clay, Rep. William Goodling, and Rep. Dale Kildee.

During the markup of the legislation in committee, Buck McKeon and said this:"For the first time, the day-to-day management of our student aid programs will be in the hands of someone with real-world experience in financial services. This individual will be given the hiring and contracting flexibility necessary to get results and will be paid based on performance. For the first time, the Department's student aid assistance will be run like a business, adopting the best practices from the private sector and focusing on bottom-line results."

Rep. McKeon's legislation passed the House with a broad bipartisan vote of 414 to 4. In fact, every Member of Congress who is here today and was serving when this legislation was passed voted for it.

The reason was simple. A few years earlier, the Government Accountability Office had added student loans to its high-risk list of programs that are especially vulnerable to waste, fraud, abuse, and mismanagement. As GAO stated at the time, the program had, "generally succeeded in providing access to money for education," end quote, but was, and I quote, "less successful in protecting the taxpayers' financial interests."

And as a result of significant work over the next few years, by 2005 GAO was able to remove student financial aid programs from its high-risk list, citing, "sustained improvements to address its financial management and internal control weaknesses." That was great news.

I want to be clear that I agree that Congress should examine whether it still makes sense today, 18 years later, to keep FSA as a performance-based organization. As Rep. Connolly said at yesterday's hearing, we may want to consider bringing the Department up to date, particularly in the area of IT and data contracts. That is something I hope we can explore today.

I also feel very strongly that we have to examine the actions of the student loan servicers. In August, the Consumer Financial Protection Bureau notified Navient, one of the Nation's biggest student loan servicers, that after a 2-year investigation it had enough evidence to indicate the company violated consumer protection laws and was considering taking legal action against the company for its late-fee practices, among other potential abuses.

A year earlier, in 2014, Navient had to pay $60 million to compensate tens of thousands of military servicemembers as part of a settlement with the Department of Justice for a, "nationwide pattern of violating the Servicemembers Civil Relief Act."

Navient also entered into a settlement with the Federal Deposit Insurance Corporation for, "deceptive and unfair acts and practices." These included, and I quote, "allocating underpayments in a manner that maximizes late fees incurred by consumers."

Unfortunately, we do not have Navient or any other servicers here today. I hope we will have the opportunity to question them at a future hearing.

Finally, while this hearing today and our hearing yesterday are important, the much more urgent priority for students in this country is addressing the exploding cost of college and the crippling debt students face when they graduate and enter the workforce.

The Center on Budget and Policy Priorities issued a report recently warning that 47 States are now, "spending less per student in the 2014–2015 school year than they did at the start of the recession." In fact, the average State has cut spending by 20 percent per student compared to the 2007 and 2008 school year. As a result, GAO reports that, "By fiscal year 2012, tuition had overtaken State funding as a source of revenue for public colleges."

This is a national emergency. The Obama administration and Democrats in Congress have tried to make significant improvements. For example, we successfully converted student loans to the Direct Loan Program, saving tens of billions of dollars. The administration has made other proposals, but many require statutory changes, so it is up to us here in Congress to act.

The most critical higher education challenge confronting our Nation is how students will pay for the ever-increasing cost of college. I hope we can focus at least some of today's discussion on this issue, and I hope we will hold another hearing in the near future to address this critical challenge.

Again, I thank you for focusing on one of the most important issues in our country, the education of our young people.

Thank you, and I yield back.

Mr. MEADOWS. I thank the gentlelady.

I now welcome and recognize the chairman of the Subcommittee on Higher Education and Workforce Training of the Committee on Education and the Workforce, the gentlelady from North Carolina, Dr. Foxx, for her opening statement.

Ms. FOXX. Thank you, Mr. Meadows.

Good morning, everyone, and welcome to this joint hearing. The title of the committees are too long.

I thank Chairman Meadows for working with our committee on an issue that is critical to serving the best interests of students, families, and taxpayers. I'm a firm believer that collaborative efforts such as this are what most often produce the practical solutions the American people deserve.

We all know that the current Federal financial system is broken. That deserves repeating. We all know that the current Federal financial aid system is broken. National student loan debt is at an all-time high, and a complex patchwork of grant, loan, and repayment programs has become so difficult to navigate that it often discourages individuals from pursuing a higher education.

Students, families, and taxpayers deserve better. That's why simplifying and improving student aid remains a leading priority as Congress continues its work to strengthen higher education. Addressing the challenges within the Federal financial aid system is an important part of that effort and one we have discussed extensively in our subcommittee.

But that's not why we are here today. Instead, we are here to examine the agency tasked with managing the system, the Office of Federal Student Aid, or FSA. That agency is responsible for administering every Federal loan, grant, work-study, and repayment program under Title IV of the Higher Education Act. In other words, FSA is in charge of delivering billions of taxpayer dollars to millions of eligible students, as well as managing more than a trillion dollars of outstanding student loan debt.

Additionally, the agency is expected to provide guidance about financial aid policies to thousands of colleges and universities and has the authority to revoke an institution's ability to participate in the aid programs should they not comply with that guidance. Needless to say, FSA plays an enormous role in the higher education system and has the ability to help or disrupt the lives of students.

In the 1990s, the Government Accountability Office designated FSA as a, "high-risk agency with longstanding management problems," To improve the efficiency and effectiveness of FSA and to mitigate the mishandling of limited resources moving forward, Congress in 1998 converted the agency to a performance-based organization that would have to meet specific objectives under the Higher Education Act.

Nearly two decades and trillions of dollars later, many would argue FSA is not achieving the intended results. It's our job to find out why and identify opportunities for reform to ensure taxpayer dollars are well-spent and students are well-served.

Numerous reports reveal FSA is rife with inefficiencies that have led to a lack of communication with students, institutions, and loan servicers; improper payments; inaccurate reporting of data; failure to ensure borrowers are aware of the repayment options available to them; mismanagement of contractors and vendors; poor customer service—and I could go on, but we only have a limited time.

After the last comprehensive review of the agency in 2008, the Department of Education's Office of Inspector General found FSA has failed to meet its responsibility as a performance-based organization, such as developing a 5-year performance plan with external stakeholders and establishing annual performance reviews for the agency's top executives.

Due to these and other failures, the inspector general noted that FSA, "has been unable to realize the expected benefits of the initiatives and has hindered its progress in meeting the requirements of the Higher Ed Act."

This is about more than checking boxes. When FSA fails to fulfill its responsibility, it jeopardizes hardworking taxpayers' money intended to help students. We need to demand better. As Congress works to strengthen higher education, we must ensure the Office of Federal Student Aid is serving the best interest of students, families, and taxpayers.

I look forward to hearing from our witnesses about how to achieve just that. Thank you for joining us today.

And thank you again, Chairman Meadows, for working with us on this important hearing.

Before I concluded my opening remarks, I do want to recognize our colleague Congressman Hinojosa, who announced last week his decision not to seek reelection after serving nearly 20 years in Con-

gress. As the ranking member of the Subcommittee on Higher Education and Workforce, Mr. Hinojosa has been an ardent champion for students, families, and workers. Mr. Hinojosa is to be commended for his service to our country, and I wish him and his family all the best in the years ahead.

I yield back.

Mr. MEADOWS. I thank the chairwoman for her eloquent words, and now recognizing the gentleman of which we owe a debt of gratitude to, the ranking member of the Subcommittee on Higher Education and the Workforce, the gentleman from Texas, for his opening statement.

Mr. HINOJOSA. Thank you, Chairman Meadows and especially Chairwoman Foxx, for your very kind and generous remarks. I really appreciate everything you said, and we will visit on that.

I also want to thank Ranking Member Maloney for holding this important hearing.

Today's joint committee hearing will examine the Office of Federal Student Aid as a performance-based organization and the management and administration of these programs. And I want to welcome our distinguished panel of witnesses for joining us this morning to share their views on how the Federal Government can continue to best serve our students.

As we have heard this morning, the Office of Federal Student Aid, known as FSA, became a PBO as part of the 1998 reauthorization of the Higher Education Act and was the first PBO established by Congress to manage the operational functions supporting financial aid programs. This model was crucial for the Department of Education to provide necessary services to our students and to ensure efficiency and accountability.

While the focus of today's joint hearing is on FSA's performance as a PBO, some of my colleagues may attempt to discredit FSA, the Federal Student Aid, and its work in successfully transitioning to the Direct Loan Program. In my view, the Department's move to direct lending in 2010 continues to provide students with a streamlined loan origination system, and it provides the Department with better oversight against fraud, waste, and abuse.

Ladies and gentlemen, I must underscore that, while there is always room for improvement, I understand that FSA has been working to address areas of improvement for quite some time. And I want to emphasize three points which contributed to address the need to improve accessibility and affordability of higher education.

First, we must remember that FSA is the largest provider of financial aid for students in the United States. In 2015, FSA delivered approximately $128 billion in federal student aid to nearly 12 million students at 6,100 institutions of higher education, amounts that had never been reached before in our country's history.

Secondly, I'm also aware that FSA has worked diligently to ensure students are receiving their financial aid funds in a timely manner so that they can pay for their education and be ready on the first day of classes.

Thirdly, FSA is responsible for managing programs that ease the burden of student loan debt for borrowers. FSA plays a vitally important role in helping borrowers repay their student loans through income-driven repayment plans.

At the same time, I must express my concerns regarding student loan servicers. Several investigations and reports, including a report issued by the Consumer Financial Protection Bureau, have found that Federal student loan servicers have not provided appropriate services and guidance and protections to borrowers.

So, with this in mind, I applaud the Obama administration for taking steps to make college more affordable for students and families by issuing a StudentAid Bill of Rights to give every borrower the right to an affordable repayment plan. Furthermore, every borrower has the right to quality customer service, reliable information, and fair treatment.

Along those same lines, the Departments of Education, the Treasury, and Consumer Financial Protection Bureau issued "Joint Statement of Principles on Student Loan Servicing" in September of this year. This is a positive step in the right direction. I wish to remind my colleagues that every student, regardless of their socioeconomic status, has an equal opportunity to both secondary education and access to financial aid.

As you are aware, tuition costs and student loan debt have risen exponentially, surpassing the $1.2 trillion that Chairwoman Foxx mentioned. We must do all that we can to help borrowers repay their debt.

With that, I look forward to hearing from our distinguished guests on these matters, and I yield back.

Mr. MEADOWS. I thank the gentleman.

I will hold the record open for 5 legislative days for any members who wish to provide and submit a written statement.

Mr. MEADOWS. We will now recognize our panel of witnesses.

I'm pleased to welcome Mr. James Runcie, who currently serves as the Chief Operating Officer at the U.S. Department of Education. Mr. Runcie served as the Deputy Chief Operating Officer of FSA from 2010 to 2011 and Acting Chief Operating Officer of the Department of Education until his full appointment in 2012.

Welcome.

I welcome Ms. Melissa Emrey-Arras—is that correct? All right. She serves as the Director of Education, Workforce, and Income Security at the Government Accountability Office. She oversees national studies on both K-through-12 and higher education issues.

I welcome back Ms. Kathleen Tighe, who currently serves as the Inspector General at the U.S. Department of Education. Ms. Tighe also chairs the Council of Inspector Generals on Integrity and Efficiency and in 2011 was appointed by President Obama to the Recovery Accountability and Transparency Board and the Government Accountability and Transparency Board.

Welcome.

I welcome Mr. Ben Miller, who currently serves as the senior director of postsecondary education at the Center for American Progress. Mr. Miller previously served as the director for higher education at New America as well as a senior policy advisor in the Office of Planning, Evaluation, and Policy Development at the Department.

And I also welcome Mr. Justin Draeger, who currently serves as the president and CEO of the National Association of Student Financial Aid Administrators. In this capacity, he serves as the pri-

mary voice of the NASFAA and the liaison between the 3,000 financial aid offices and Congress and the Federal Government.

Welcome to you all, and thank you for being here.

Pursuant to Oversight and Government Reform Committee rules, all witnesses will be sworn in before they testify. So I'd ask that you please rise and raise your right hand.

Do you solemnly swear or affirm that the testimony that you're about to give will be the truth, the whole truth, and nothing but the truth?

Thank you. Please be seated.

Let the record reflect that all witnesses answered in the affirmative.

And in order to allow time for discussion, we would appreciate if you would please limit your oral testimony to 5 minutes. However, your entire written statement will be made part of the record.

Mr. Runcie, you are recognized for 5 minutes.

WITNESS STATEMENTS

STATEMENT OF JAMES RUNCIE

Mr. RUNCIE. Thank you, Chairman Meadows, Chairwoman Foxx and Ranking Members Maloney and Hinojosa and members of the committee, for the opportunity to discuss Federal Student Aid as a PBO. My name is James Runcie, and I serve as FSA's Chief Operating Officer.

FSA is the largest source of federal student aid for postsecondary education in the U.S. During fiscal year 2015, we delivered more than $127 billion in aid to more than 13 million students attending approximately 6,100 postsecondary institutions. During this time, we processed nearly 20 million FAFSAs. Our loan portfolio is currently more than $1.2 trillion, with 42 million individual recipients and 193 million loans.

We use a public-private partnership that leverages almost 1,300 Federal employees and more than 12,000 contracted employees.

Since FSA became a PBO, we have had numerous successes in transforming the delivery of student aid. FSA has responded to rapidly changing landscapes in the delivery of federal student aid.

To accommodate growth and mitigate risk, FSA contracted with four private-sector servicers, who levy their commercial practices to expedite the delivery of services. As a result of the capital markets' decline in 2008, we injected $112 billion into the markets, ensuring that every student that depended on federal student aid received it.

We updated our systems, increased capacity, and provided training to thousands of financial aid professionals at thousands of schools to move to 100-percent direct lending. And we entered into agreements with not-for-profit loan servicers. We successfully implemented 11 NFPs, and we did all of these things with no negative impact to students and families.

The PBO contracting flexibilities allow us to structure contracts in a way that include performance requirements and protections for students and borrowers. Spurred in part by the PBO legislation and landmark procurement laws passed by Congress, FSA has

been a government leader in delivering its mission through the adoption of commercial solutions and systems.

This year, FSA achieved $150 million in cost avoidance through successful contract negotiations. We have saved $105 million since 2009, thanks to the culture of accountability established by the PBO. We are proud to have earned 14 consecutive annual clean financial statement audit opinions.

While we have strengthened our financial position, we also have strengthened our program compliance process to ensure the proper administration of federal student aid funds. We have increased efforts to detect fraud in the FAFSA, and we have significantly reduced the time to complete the online application—more than 1 hour in 2009—to less than 24 minutes in 2015.

The FAFSA is but one integrated application among many in our complex operating environment. In 2015, we documented and assessed more than 2,600 internal controls across 36 business processes. We found that 96 percent of these controls are designed and operate effectively. The remaining 4 percent had immaterial deficiencies, for which we have established corrective actions.

Within the last several years, we have effectively launched and implemented major modifications to our operating environment due to legislative, regulatory, and policy changes. Examples include but certainly are not limited to the IRS Data Retrieval Tool, new income-driven repayment plans, the 150-percent Direct Subsidized Loan limit, and a comprehensive enterprise data warehouse.

Through the recent Cyber Sprint, FSA has made significant progress in implementing additional protections to customer data. In addition, implementation of CyberArk at our Virtual Data Center, completed last month, has remediated many of our audit access control findings.

The need for Federal aid will continue to grow, and FSA must continue to adapt. We must be in a position to continue responding to rapid regulatory market changes, to recruit and retain specialized talent, to negotiate commercial contracting, and to provide the most effective program compliance in order to continue to fulfill our mission.

Taking full advantage of each authority granted as a PBO was a critical element to our mission success. The employees that I represent at FSA are focused on the future of the organization—a future that includes the early availability of the FAFSA in October 2016; implementing prior-prior; repay and servicing improvements; launching a new student complaint system; expanding our oversight capacity; and increasing security of our systems.

I appreciate the opportunity to provide the committee with an overview and welcome any questions that you may have today. Thank you.

[prepared statement of Mr. Runcie follows:]

Written Testimony
James W. Runcie
Chief Operating Officer
Federal Student Aid
U.S. Department of Education

"Federal Student Aid: Performance-Based Organization Review"
Before the U.S. House of Representatives Oversight and Government Reform Committee (OGR), Subcommittee on Government Operations
And
U.S. House of Representatives Education and Workforce Committee, Subcommittee on Higher Education and Workforce Training
November 18, 2015

Thank you, Chairman Meadows and Chairwoman Foxx, Ranking Members Connolly and Hinojosa, and members of the Committee, for the opportunity to discuss the Department of Education's Federal Student Aid (FSA) office as a performance-based organization.

My name is James W. Runcie, and I am the Chief Operating Officer of FSA.

FSA is the largest source of federal student aid for postsecondary education in the United States. During Fiscal Year 2015, FSA delivered more than $127 billion in grant, work-study, and loan assistance to more than 13 million students attending approximately 6,100 postsecondary educational institutions. During this time, we also processed nearly 20 million applications for federal student aid—the Free Application for Federal Student Aid (FAFSA®). As of September 30, 2015, our loan portfolio is more than $1.2 trillion, with 42 million individual recipients and 193 million loans. We accomplished these results by utilizing a public-private partnership that leverages more than 1,200 federal employees and an additional 10,000 contracted employees.

FSA's student-focused mission, *"Funding America's Future, One Student at a Time,"* drives a vision to be the secure source of student financial aid, information, and services and FSA's core values—integrity, customer service, excellence, respect, stewardship, and teamwork— reflect a culture continuously striving to be a high-performing organization. FSA's commitment to safeguarding taxpayer interests as we provide access to federal student aid for students and their families permeates throughout the organization.

Background

As you know, sections 141 through 143 of Title I of the Higher Education Act (the HEA), as amended, established Federal Student Aid as a discrete management unit within the Department of Education to administer and oversee the federal student financial assistance programs authorized under Title IV of the HEA. As the federal government's first performance-based organization (PBO), FSA shifted from focusing on required processes to achieving program results and customer satisfaction.

As defined in the 1998 legislation that established the PBO, the specific purposes of FSA as a PBO are to:

- improve service to students and other participants in the student financial assistance programs authorized under Title IV, including making those programs more understandable to students and their parents;
- reduce the costs of administering those programs;
- increase the accountability of the officials responsible for administering the operational aspects of these programs;
- provide greater flexibility in the management and administration of the federal student financial assistance programs;
- integrate the information systems supporting the federal student financial assistance programs;
- implement an open, common, integrated system for the delivery of student financial assistance under Title IV; and
- develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

The PBO legislation requires the appointment of a non-political chief operating officer (COO) and, in consultation with the Education secretary, the appointment of a student loan ombudsman. The PBO legislation allows FSA to use certain procurement and personnel flexibilities that, generally, are not available to federal agencies. The legislation also requires the organization to develop five-year and annual performance plans and calls for the COO to provide an annual report, through the Education Secretary, about FSA's performance.

The PBO legislation specifically clarifies that the responsibility for policy rests with the Secretary and not with the PBO. That said, FSA's Policy Liaison and Implementation (PLI) staff works closely with the various offices in the Department that have policy responsibility, including the offices of the Undersecretary, Postsecondary Education, Policy and Program Development, and the General Counsel.

In the 17 years since FSA became a PBO, we have had numerous successes in transforming the delivery of federal student aid. In recent years, the PBO structure and objectives have played an increasing role in the management and achievement of many of our deliverables.

Expanding Operations

Beginning in 2007, the decline in the financial markets affected student lending by restricting the availability of capital for private lenders, and as a result, many schools began moving from the FFEL Program to the Direct Loan Program. Congress worked expeditiously to pass the Ensuring Continued Access to Student Loans Act (ECASLA) to create a vehicle for the Department to purchase loans in the Federal Family Education Loan (FFEL) Program from commercial lenders to keep liquidity flowing through the commercial FFEL program. The Department also assumed responsibility for servicing these loans.

In 2009, FSA contracted through a full and open competitive process with four servicers – the Title IV Additional Servicers (TIVAS) – to increase our loan servicing capacity to accommodate new volumes. Under the TIVAS contracts, four of the largest and most successful private-sector student loan servicers currently service more than 30 million borrower accounts. These firms all have extensive servicing experience and the capability to expand capacity as needed to accommodate growth in the Department's portfolio.

The Department's key requirement under the 2009 acquisition was to acquire efficient and effective commercial contract services. These entities are responsible for collecting payments on a loan, advising borrowers on resources and benefits to manage their federal student loan obligations, responding to customer service inquiries, and performing other administrative tasks associated with maintaining a loan on behalf of the Department.

In the midst of the nation's financial crisis, every new and returning student that depended on federal loan assistance to attend school received assistance. The loan purchase and loan purchase commitment programs, ultimately, injected more than $112 billion into the student loan market. With the final expiration of the loan purchase authority in January 2014, FSA completed the successful shutdown of these emergency purchase programs. Our demonstrated flexibility and quick action to create the complex supporting operational processes to facilitate loan purchases, the movement of funds, and the transfer of assets to acquire additional servicing capacity were, in part, because of flexibilities provided by the PBO legislation. FSA's actions were recognized by the financial community as one of the successful government programs during the prolonged financial crisis.

Shortly thereafter, the passage and enactment of the Health Care and Education Reconciliation Act (HCERA) of 2010 ushered in sweeping reforms to the federal student financial assistance programs, resulting in tens of billions of dollars in increased Pell Grant Program funding for low-income college-bound students.

This legislation also created 100 percent Direct Lending, an Administration priority and a dramatic increase in FSA's operations and responsibilities. Although the Direct Loan program was created in 1994, the transition to prepare for an exponential increase in Direct Loan volume, within nine months, FSA updated its systems, increased capacity, and provided training to thousands of financial aid professionals from schools across the world to assist them in preparing for this complex, monumental transition. We successfully originated and disbursed loans for millions of students, and on-boarded thousands of schools into the Direct Loan Program

The process of transitioning Title IV-eligible institutions to 100 percent Direct Loans was multifaceted and executed with a focus on supporting schools in a secure, comprehensive manner and ensuring that no student faced the academic year without access to the Direct Loan. By July 1, 2010, over 4,200 schools successfully transitioned, joining the over 1,000 institutions already in the Direct Loan Program. The PBO hiring flexibilities allow FSA to retain staff with experience and specialized expertise. Such staff members, with a deep knowledge of school operations, greatly enhanced our ability to effectively and efficiently manage the transition to 100 percent Direct Loans.

PBO flexibilities also allow FSA to structure servicing contracts in a way that includes performance and protections for borrowers. In September 2014, FSA changed all contracts to further incentivize servicers to keep borrowers in good repayment status and able to manage their debt. Servicers receive higher compensation for keeping their borrowers in a good repayment status and decreased compensation for borrowers who are delinquent, in deferment or forbearance, or in default. FSA believes these contract structures will lead to more positive outcomes for borrowers.

To improve the services, accessibility and security of loan and borrower information, FSA launched StudentLoans.gov, a way for students, parents, and borrowers to conduct business related to their federal student loans, like filling out and signing Master Promissory Notes and completing entrance and exit loan counseling. Over time, the website has provided additional services and products to help students, parents, and borrowers understand the impact of borrowing and increase their knowledge about repayment. These resources include:

- the Repayment Estimator, an online tool that automatically uses the borrower's actual loan history and provides sample monthly payments for all repayment plans;
- enhanced loan counseling—entrance, exit, and a Financial Awareness Counseling Tool (FACT)—featuring financial literacy information, quizzes, and budgeting exercises; and
- an improved electronic income-driven repayment (IDR) application that allows borrowers to complete a single application for all repayment programs that factor income as part of their eligibility. The application allows borrowers to transfer their tax information electronically and directly from the Internal Revenue Service (IRS), and it permits borrowers to either apply for a particular IDR program or to simply request the plan with the lowest monthly repayment amount.

We also implemented a new loan consolidation application, which provides real-time loan balances and a selection of repayment plans, including income-driven plans to help borrowers manage their student loan debt. Since the application's inception, approximately 1.4 million borrowers have taken advantage of loan consolidation, and about 69 percent of them have entered into an income-driven repayment plan.

As FSA expands and improves operations, we manage financial, operational, market, and security risk in order to concentrate on the areas of highest return regarding the successful administration of the student loan portfolio. FSA's risk management processes must be robust and data-driven in order to protect borrower and taxpayer interests.

Improving Service and Awareness

FSA has improved its service to students and other participants in the student financial assistance programs authorized under Title IV, and made the programs more understandable to students and their parents. The first step to receiving federal student aid for postsecondary education is applying. The website, FAFSA.gov, hosts the electronic FAFSA. More than 99 percent of all FAFSAs are submitted electronically

FSA has significantly simplified the FAFSA experience for students and families. The FAFSA has decreased from more than one hour in 2009 to less than 24 minutes in 2015. Additionally, FSA redesigned FAFSA.gov to guide the applicant through all phases of the application and

incorporated additional skip logic to reduce the number of questions applicants must answer, and shorten the overall length of the application.

FAFSA.gov, rivaling the best web portals in government and industry, scored 87 out of 100 on the American Customer Satisfaction Index (ACSI) Benchmark for U.S. Federal Government 2014. A score of 87 is considered outstanding by ACSI and matches what we hear from our users. Using FAFSA.gov, more than six million students and parents electronically retrieved their income information from the IRS using the Data Retrieval Tool (DRT) when completing their 2014–15 FAFSA. The DRT, an innovation that improves both speed and accuracy, also has been offered to borrowers applying for IDR plans.

In July 2012 FSA consolidated five stand-alone Federal Student Aid websites—College.gov, FSA Gateway, Ombudsman.ed.gov, Students.gov and Student Aid on the Web—into StudentAid.gov. StudentAid.gov is a "one-stop shop," where consumers can access information about navigating the college decision-making process, learn about federal student aid, and browse resources about repaying student loans. Consolidating into a single site eliminated unnecessary hardware and software and saved $1.5 million annually in operation costs.

Since 2012, StudentAid.gov has received more than 110 million total site visits. In FY 2015, the site received 43 million visits—a 32% increase over the 32 million site visits in FY 2014. As FSA's first mobile-optimized website, StudentAid.gov had an increase of 71% in FY 2015 mobile traffic, which equates to15 million mobile sessions in FY 2015 compared to 8.8 million in FY 2014.

Optimizing StudentAid.gov for mobile users is but one way in which FSA has adapted to a changing environment and reaching out to our customers based on how they engage. Through our social media efforts in FY 2015 we answered thousands of questions posed via our social media platforms, an increase of nearly 80% from FY 2014. As of FY 2015, the FSA Facebook page received more than 350,000 "likes" (an increase of 21% from FY 2014), FSA's Twitter account had more than 92,000 followers (an increase of 31% from FY 2014), and FSA's YouTube channel had more than 10,000 subscribers (an increase of 44.4% from FY 2014), metrics that indicate FSA is viewed as a trusted source.

In FY 2014, FSA launched new external partnerships with the U.S. Department of the Treasury and Intuit (maker of TurboTax®) to generate greater customer awareness about and understanding of federal student loan repayment options. We remain dedicated to providing borrowers with the resources necessary to make informed financial decisions and help lower default and delinquency.

Increasing Accountability

In keeping with its commitment to compliance and enforcement, FSA continues to strengthen its program compliance process to ensure the proper administration of federal student aid funds. We created a division that, among other things, provides oversight of schools that disburse large amounts of federal student aid funds that span multiple regions throughout the country and financial institutions. This division allows FSA to use a more efficient and streamlined oversight

model to monitor complex publicly traded corporations and large school groups. FSA can complete more in-depth analysis and initiate compliance activities that focus on areas that may pose significant risk to students and taxpayers.

FSA has begun requiring multi-regional schools to provide the Department financial, student, and program activity data more frequently. These data allow FSA to provide better controls, oversight, and risk mitigation for these high-risk schools. Additionally, FSA staff have program review approaches that focus on 90/10, misrepresentation, and student eligibility. FSA is hiring new full-time employees and potentially using contracting to reduce how long it takes to do high quality reviews.

FSA also established a separate Clery Act team to provide consistent, targeted enforcement of the Jeanne Clery Act and Drug-Free Schools and Communities Act (DFSCA). FSA's major role in helping students pursue their educational goals includes ensuring that students and school employees have a safe and healthy campus environment that supports their academic work. The Clery Act and the DFSCA require schools to keep campus community members safe and to be transparent campus safety and crime prevention matters.

The Clery Team ensures that schools provide accurate and complete information about safety and make campuses more secure. The team also enforces rules intended to ensure that crime victims get the support and services that they need. The team conducts reviews, assessments, and ongoing monitoring activities and taking appropriate enforcement actions to address violations.

Federal Student Aid has partnered with other federal agencies that have monitoring responsibilities of postsecondary institutions such as the FBI. For example, Federal Student Aid conducts joint campus security site visits with the FBI.

Integrating Information Systems

FSA's information systems are a complex ecosystem of FSA systems and those of schools, guaranty agencies, servicers, and other participants. For the FSA-based systems, we documented and assessed more than 2,600 internal controls across 36 separate business processes and 18 integrated IT systems this year. We found that 96 percent of these controls are designed and operate effectively. The remaining four percent had immaterial deficiencies for which we have established corrective actions. We repeat this process each year, continuously monitoring our environment for opportunities to improve, despite the current strong control environment.

Our audit oversight partners at the OIG and GAO have found deficiencies similar to those that we have identified through the extensive scanning process and as part of the quarterly ongoing security authorization program. Specifically, we self-reported significant deficiencies in access controls and configuration management FISCAM control categories as part of those 4% deficiencies that I mentioned above. The OIG and GAO have found similar deficiencies in our IT environment. Examples of these deficiencies include using a less secure connection protocols and the management of access controls at the correct levels. The Cyber Sprint helped FSA to focus our priorities to converting to the recommended secure TLS connections and developing a comprehensive access control system that will strengthen the management of access controls. In

addition, the implementation of Cyber Ark at our Virtual Data Center, completed in October 2015, has remediated many of the audit access control findings.

Information technology (IT) security has been, and will continue to be, an ongoing priority for FSA. We are working to address the deficiencies that we and our audit partners have identified in our systems environment. This is evidenced through the fact that we spent an estimated $90 million in FY2015 on IT security initiatives and on security requirements embedded in all of our contracts that make up our integrated ecosystem.

Since 2006, FSA also has obtained authority to provide limited management of the background investigation and Personal Identity Verification (PIV) card issuance programs. Since implementation, FSA has facilitated the initiation/adjudication of tens of thousands of background investigations for employees and contractors, as well as PIV card issuances, making the hiring and staff onboarding processes more efficient.

In the recent cyber sprint in response to the OPM security breach, FSA made significant progress to implement the following protections to customer data: implemented a mandatory 30 day patching cycle, tightened access management policies to minimize the number of privileged users, required immediate installation of DHS critical vulnerability scan patches, and began implementing changes within FSA systems to require PIV/ PIV-I access for privileged users during the summer. FSA continued to strengthen its security posture through the purchase of CyberArk. CyberArk is a tool for automating information security privileged account management to isolate, control, and monitor all privileged user activity across the Virtual Data Center (VDC). The CyberArk implementation within the VDC was completed by October 2015 and these capabilities are now being implemented by our external partners, to be completed NLT Q2FY16.

FSA also has proactively focused on modernizing our infrastructure and applications to enhance our security posture by:

- establishing a virtual data center (VDC) (2001);
- securing the VDC through the Access and Identity Management System (AIMS) (2007);
- requiring token-based, two-factor authentication for more than 80,000 privileged users and as part of the Cyber Sprint has re-evaluated the privileged user definition and is now issuing PIV or PIV I cards to replace the token based system;
- instituting a security operations center (SOC) that provides 24/7 system monitoring (2012);
- scanning FSA systems and applications nightly for system vulnerabilities (since 2013);
- initiating NIST-based security self-assessments for all 28 guarantee agencies in 2015;
- implementing a Trusted Internet Connection (TIC) that is continuously monitored (2014); and
- removing PII from the log-in process for Federal Student Aid websites and protecting sensitive information for millions of students, parents, and borrowers via the FSA ID (2015).

In 2011, FSA recognized that in order to have security within all systems, the policies must be current and all procedures must be enforced to ensure more effective and responsible

management of IT projects. This was achieved through the development and implementation of Lifecycle Management Methodology (LMM) framework. The LMM provides an approach with guidance, processes, and tools that ensure appropriate IT resource management. Detailed risk logs, mitigation strategies, Stage Gate reviews, and other controls significantly reduce IT project risks. Now in FY2015, most policies are current with the Department standards and a list of the remaining policies is maintained to ensure updates are made. The LMM process now ensures the optimal programming processes are utilized and security is consistently applied prior to the release of any system or major upgrade.

FSA started the development of a next-generation data center by conducting research in 2013 that defined the highest potential for new technology and best practices across the federal government and the private sector. FSA adopted a hybrid design in 2014 that incorporates traditional computing methodologies with cloud services and virtualization and awarded a new contract for the data center this year. From these changes, the organization will gain major benefits in 2016 and beyond, including stronger security, more agile management and provisioning, and enhanced flexibility for future design improvements.

In FY 2015, FSA launched its enterprise data warehouse and analytics platform that contains data consolidated from other systems such as Common Origination & Disbursement (COD), the National Student Loan Database (NSLDS), and the Central Processing System (CPS). This project provides the foundation for FSA to provide more accurate, consistent, and timely responses to the hundreds of data requests the organization receives annually, develop statistical models to advise policymakers, and guide FSA operations.

Reducing Costs

Spurred, in part, by the PBO legislation and landmark procurement laws passed by Congress, FSA has been a government leader in delivering its mission through the adoption of commercial solutions and systems.

FSA's success in leveraging commercial practices to deliver student aid has yielded many advantages, including:

- the efficient, yet low-risk, implementation of new program requirements;
- the reduction of risk through use of multiple providers delivering program solutions;
- the elimination of oligopolistic vendor relationships through increased competition (97% of all awarded dollars were done so competitively) and the expansion of available providers;
- a dramatic increase (from 0.3% in 2003 to nearly 27% in 2015) in the use of small businesses, yielding both job growth and innovation, to support student aid programs; and
- a critical flexibility in meeting emerging statutory and policy requirements in a timely and efficient manner.

In addition to the cost avoidances achieved through successful contract negotiations during FY 2015, FSA has saved $105 million since 2009 thanks to the culture of accountability established by the PBO. Specific actions include improved cash management procedures, leveraged

virtualization technology, consolidated websites, and migration from paper to electronic service delivery, among other activities.

According to the Standish Group 2015 *Chaos Report*, only 29 percent of government and commercial software development projects in FY 2015 were successful, while 71 percent either were challenged or failed. While FSA has experienced two challenged system implementations, such as our debt collection system, there have been far more successes. In fact, within the last several years, FSA has effectively launched or implemented major modifications to our operating environment due to legislative, regulatory, or policy changes. Examples include:

- the IRS Data Retrieval Tool;
- the FSA ID;
- new IDR and Pay As You Earn (PAYE) payment plans;
- the Federal Pell Grant Lifetime Eligibility Limit; and
- the 150% Direct Subsidized Loan Limit.

FSA has earned 14 continuous annual clean financial statement audit opinions, despite managing 82% of the federal government's loans receivable as of the end of FY 2014 and managing the most complex student loan servicing operation in the world.

Effectively Managing Human Capital

Although the PBO was established in the HEA in 1998, the formal delegation of limited human resources authority was granted to FSA by the U.S. Department of Education (the Department) in January 2006. These authorities include classification, hiring and compensation, labor and employee relations; training and development; the administration of work/life programs (e.g., telework and reasonable accommodation); human resources systems coordination; and personnel processing and records management.

FSA has assembled a team of seasoned senior leaders with professional expertise in areas ranging from financial services, higher education financial aid, information technology, and operations.

FSA has dedicated itself to training the workforce in the fundamentals of its business and other mission-critical areas, building strong current and future leaders, and aligning staff in effective organization structures.

FSA works with colleagues across the Department to establish measures and strategies for tracking leadership development and coordinates our efforts with the Human Capital Advisory Committee, the Office of Personnel Management, and other federal agencies. In the past, we have facilitated focus group meetings with employees within the business unit responsible for program compliance to identify ways to improve the conduct of performance management activities and to develop business-specific performance benchmarks.

In 2010, FSA created the "FSA First Class" program, which helps FSA's managers enhance their skills. Designed in collaboration with the Department and the Partnership for Public Service,

FSA First Class aims to help managers strengthen what they do well and learn about new tools and methods to leverage for better performance among their employees. The FSA First Class program principles are aligned with FSA's mission, vision, and values, and since its implementation, the program remains one of the Department's premier employee engagement programs.

Conclusion

The demand for federal grants and loans to help finance postsecondary education will continue to increase, and Federal Student Aid will continue to adapt to meet that growing need. Despite changing landscapes, we have maintained a framework and continuity of leadership that have been vital to successfully delivering student financial assistance. It is essential that FSA be in a position to continue to respond to rapid regulatory and market changes; to recruit and retain specialized talent; to negotiate commercial contracting, operational, risk management, and technology solutions; and to provide the most effective program compliance in order to continue to fulfill its mission of "*Funding America's Future, One Student at a Time*."

The more than 1,200 employees that I represent at FSA are focused on the future of our organization; a future that includes moving up the availability of the FAFSA in October 2016 from its normal January date, implementing REPAYE and "Prior-Prior," launching a new student complaint system, implementing servicing improvements, expanding our oversight capacity over Title IV schools and increasing the security of the personal information contained in our systems.

I appreciate the opportunity to provide the Committee with an overview of FSA's significant accomplishments, and I welcome any questions you may have today.

Mr. MEADOWS. Thank you, Mr. Runcie.

Ms. Emrey-Arras, you are recognized for 5 minutes.

STATEMENT OF MELISSA EMREY–ARRAS

Ms. EMREY-ARRAS. Thank you. I am pleased to be here today to discuss the results of our work examining FSA's efforts to monitor and oversee the Direct Loan Program.

FSA administers the Direct Loan Program and oversees the performance of contractors supporting this program. These contractors include loan servicers responsible for billing and other services, as well as companies managing the Department's defaulted loan information system.

To address longstanding management weaknesses, the Higher Education Act was amended to establish FSA as the first PBO. A PBO is intended to transform the delivery of public services by committing to achieving specific, measurable goals with targets for improvement in exchange for being provided with more flexibility to manage its operations.

Accordingly, FSA's strategic plan includes several goals focused on monitoring contractors and serving the needs of borrowers. However, recent questions have been raised about FSA's management of the Direct Loan Program, including its oversight of contractors.

In March 2014, we found that FSA's limited planning and oversight of its IT contractor prevented Education from providing timely benefits to borrowers who completed loan rehabilitation. Loan rehabilitation allows borrowers who make nine on-time monthly payments in 10 months to have a default removed from their credit reports. However, no rehabilitations were processed from October 2011 until April 2012 due to issues with FSA's IT system, and FSA officials said they needed until January of 2013 to clear the resulting backlog.

My statement today provides additional findings from our recently completed work on FSA's management of the Direct Loan Program and will focus on how well FSA, one, provides instructions and guidance to Direct Loan servicers, and, two, monitors and documents calls between Direct Loan borrowers and servicers.

In terms of FSA's instructions and guidance, we found that FSA's communications to loan servicers are sometimes lacking, resulting in inconsistent services to borrowers. Six of the seven servicers we interviewed reported various issues resulting from absent, unclear, and inconsistent guidance and instructions.

For example, one servicer said there were no instructions for how to apply over- or underpayments to borrower accounts. If a borrower has multiple loans, some servicers spread an overpayment amount evenly across the loans, while other servicers target the higher-interest loans first.

Furthermore, FSA is not consistently sharing all clarifications on Direct Loan Program instructions with all servicers. Accordingly, we are recommending today that FSA review and improve how it provides instruction and guidance to servicers.

In terms of FSA's call-monitoring process, we found that FSA's monitoring has methodological weaknesses and is poorly documented. For example, we found that FSA monitors far fewer out-

bound calls than inbound calls, even though one servicer told us that it makes 60 times more outbound calls than inbound calls, and that outbound calls are made to borrowers who are often delinquent and at risk of default.

Also, the methodology for selecting calls for review is not well-defined, and it relies on servicers to implement, with no verification from FSA to ensure its integrity. Accordingly, we are recommending today that FSA implement a more rigorous methodology for monitoring calls.

In addition, we found weaknesses in how FSA documents the results of its call monitoring. For example, some recent monitored calls did not consistently track errors over time. In addition, the monthly summary reports only capture errors if four or more occur in the same call. If a servicer fails to answer all of the borrower's questions but does not compound this problem with three additional errors, the report does not capture this information. Accordingly, we are recommending today that FSA improve documentation of its call monitoring.

FSA faces challenges in the Direct Loan Program that affect its ability to function effectively as a PBO. If FSA fails to strengthen its instructions and guidance to servicers and improve call monitoring, differences between servicers will persist that could financially hurt borrowers or risk the integrity of the program.

Thank you. This concludes my statement.

[Prepared statement of Ms. Emrey-Arras follows:]

GAO Highlights

Highlights of GAO-16-196T, a testimony before the Subcommittee on Government Operations, Committee on Oversight and Government Reform and the Subcommittee on Higher Education and Workforce Training, Committee on Education and the Workforce, House of Representatives

Why GAO Did This Study

During fiscal year 2014, Education issued more than $99 billion in Direct Loans to 9.4 million borrowers. Education contracts with and monitors the performance of servicers that handle billing and other services for borrowers, and entities that support rehabilitation of defaulted loans. In 1998, federal law established FSA as a performance-based organization, giving it more flexibility to manage operations, including Direct Loans.

GAO's testimony focuses on: (1) how effective FSA's instructions and guidance to servicers are, (2) how well FSA monitors and documents calls between Direct Loan borrowers and servicers, and (3) the status of FSA's oversight of the defaulted loan rehabilitation process. The first two questions address recently completed GAO work on FSA's oversight of servicers and communications with borrowers. The third question reflects results of GAO's previously issued work. GAO reviewed FSA's contracts, policies, procedures, instructions, and guidance; analyzed its monitoring reports and processes; and reviewed relevant federal laws and regulations. GAO also interviewed federal officials, including officials from FSA, servicers, and representatives from higher education associations. We shared our findings with FSA officials and incorporated their comments as appropriate.

What GAO Recommends

GAO is recommending that FSA (1) review and improve how it provides instructions and guidance to servicers, (2) improve its methodology for monitoring calls between servicers and borrowers, and (3) improve documentation of its call monitoring.

View GAO-16-196T. For more information, contact Melissa Emrey-Arras at (617) 788-0534 or emreyarrasm@gao.gov.

November 18, 2015

FEDERAL STUDENT LOANS

KEY WEAKNESSES LIMIT EDUCATION'S MANAGEMENT OF CONTRACTORS

What GAO Found

The Department of Education's Office of Federal Student Aid's (FSA) instructions and guidance to loan servicers are sometimes lacking, resulting in inconsistent and inefficient services to borrowers. While FSA has taken some steps to improve program instructions and guidance, six of the seven servicers GAO interviewed reported various issues resulting from absent, unclear and inconsistent guidance and instructions from FSA. For example, one servicer said there are no instructions for how to apply over- or underpayments to borrower accounts. In other cases, guidance is unclear; for example, according to one servicer, there is insufficient guidance on how to handle reporting certain types of adverse credit history to credit bureaus. Furthermore, in certain instances when FSA provided additional guidance or clarifications, it did not consistently share them with all servicers. Federal internal control standards state that information should be communicated in a form that enables entities to carry out responsibilities. Without improved guidance and instructions to servicers, borrower finances or the integrity of the Direct Loan program could be negatively affected.

FSA monitors calls between servicers and borrowers, but there are weaknesses in the processes for selecting calls to be monitored and for documenting results. For example, FSA monitors far fewer outbound than inbound calls, even though one servicer said it makes 60 times more outbound calls than it receives inbound calls, and outbound calls are often made to borrowers who are delinquent and at risk of default. Also, the methodology for selecting recorded calls for review is not well-defined and relies on servicers to implement, with no verification from FSA to ensure its integrity. This does not align with the Office of Management and Budget's best practices for developing sample designs. In addition, the overall results of the call monitoring are poorly documented. For example, summaries of monitored calls did not consistently track errors over time. FSA's Strategic Plan calls for enhancing customer-facing processes, but FSA's call monitoring leaves management without complete information it needs to understand how well servicers interact with borrowers.

FSA has taken some steps to improve its oversight of the defaulted loan rehabilitation process in response to GAO's March 2014 report. Loan rehabilitation allows eligible borrowers who make nine on-time monthly payments within 10 months to have the default removed from their credit reports. In March 2014, GAO found that FSA was unable to provide most eligible borrowers who completed loan rehabilitation with timely benefits, such as removing defaults from their credit reports, for more than a year after upgrading the information system it uses to manage defaulted loans. As a result of limited planning and oversight of its system contractor, no rehabilitations were processed from October 2011 until April 2012, and FSA officials said they needed until January 2013 to clear the resulting backlog. GAO recommended that FSA take steps to track loan rehabilitation performance and improve oversight of its system contractor. FSA agreed with the recommendations and has begun taking action to address them.

Chairman Meadows and Chairwoman Foxx, Ranking Members Connolly and Hinojosa, and Members of the Subcommittees:

I am pleased to be here today to discuss the results of our work examining the Department of Education's (Education) efforts to monitor and oversee the Direct Loan program. Federal student loans play a crucial role in ensuring access to higher education for millions of students each year. In fiscal year 2014, Education issued more than $99 billion in Title IV student loans to 9.4 million borrowers under the William D. Ford Direct Loan (Direct Loan) Program. Through the Office of Federal Student Aid (FSA), Education administers student financial aid programs—including the Direct Loan program—that are authorized under Title IV of the Higher Education Act of 1965, as amended,[1] and oversees the performance of contractors supporting these programs. These contractors include loan servicers responsible for billing and other services, as well as companies managing the department's defaulted loan information system. Under the Direct Loan program, FSA issues and manages the loans while contractors service them.

To address longstanding management weaknesses – including Education's vulnerability to losses due to fraud, waste, abuse, and mismanagement –the Higher Education Act was amended in 1998, to establish FSA as the first federal performance-based organization (PBO).[2] A PBO is intended to transform the delivery of public services by committing to achieving specific measurable goals with targets for improvement, in exchange for being provided with more flexibility to manage its operations. Accordingly, FSA's strategic plan includes several goals focused on monitoring contractors and serving the needs of borrowers. However, recent questions have been raised about FSA's management of the Direct Loan program, including its oversight of contractors. These include both loan servicers responsible for servicing

[1]Pub. L. No. 89-329, 79 Stat. 1232-1254, codified at 20 U.S.C. §§ 1070- 1099d and 42 U.S.C. §§ 2751-2756b. These programs include the William D. Ford Federal Direct Loan Program, the Federal Family Education Loan Program, Pell Grants, and various campus-based programs.

[2]Higher Education Amendments of 1998, Pub. L. No. 105-244, tit I, § 101(a), 112 Stat. 1581, 1604, codified as amended at 20 U.S.C. § 1018.

the needs of borrowers and contractors managing the department's defaulted loan information system.[3]

My statement today provides findings from our recently completed work on FSA's management of the Direct Loan program and our prior published work on loan rehabilitation[4] and will focus on: (1) how well FSA provides instructions and guidance to Direct Loan servicers, (2) how well FSA monitors and documents calls between Direct Loan borrowers and servicers, and (3) the status of FSA's oversight of the defaulted loan rehabilitation process.

The performance audit work to develop our analysis of FSA's instructions and guidance to loan servicers, as well as its monitoring and documentation of calls between borrowers and loan servicers, was conducted from May 2014 to November 2015. For this work, we assessed FSA's instructions and guidance to servicers and its call monitoring procedures against federal internal control standards, FSA's strategic plan, and the Office of Management and Budget's standards for statistical research. In addition, we reviewed FSA's policies, procedures, instructions and guidance related to Direct Loan servicers; FSA's contracts and monitoring plans for Direct Loan servicers; and relevant federal laws and regulations. We also analyzed information from FSA's monitoring of servicers' calls with borrowers, and other compliance monitoring documentation. We interviewed officials from FSA, Education's Office of the Inspector General, and the Consumer Financial Protection Bureau. We also interviewed representatives from all four Title IV Additional Servicers and three not-for-profit Direct Loan servicers – which together represent over 90 percent of the federal student loan

[3]Default generally occurs when a borrower fails to make a payment for more than 270 days. However, FSA generally identifies defaulted loans as those that are 360 days or more past due, because loan servicers have 90 days to transfer Direct Loans to FSA's Default Resolution Group.

[4]Loan rehabilitation is one way borrowers can get their loans out of default. Borrowers who make nine on-time monthly payments within 10 months may be eligible for loan rehabilitation, which entitles them to have the default removed from their credit report.

portfolio – and reviewed documentation from each.[5] In addition, we interviewed representatives from several higher education and other associations that include as members—or represent the interests of—schools, borrowers, loan servicers, or financial aid professionals. We shared our findings with FSA officials and incorporated their comments as appropriate.

The information regarding FSA's oversight of the defaulted loan information process is from our March 2014 report on this issue.[6] For this report, we reviewed policies, procedures, and guidance; contracts and monitoring records for FSA's system contractor; fiscal year 2011-2013 collections and rehabilitation data;[7] and relevant federal laws and regulations. We interviewed FSA officials, its defaulted student loan system contractor, and borrower advocacy and consumer protection groups. We also reviewed information FSA provided on actions it has taken to address recommendations since March 2014.

The work upon which this statement is based was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Under the Direct Loan program, FSA issues several types of loans to students and their parents, including Subsidized, Unsubsidized, and

[5]Loan servicing for the Direct Loan program used to be handled by a single contractor. In 2009, four Title IV Additional Servicer (TIVAS) contracts were awarded as part of FSA's strategy to improve servicing performance by fostering competition among vendors. In addition, not-for-profit (NFP) servicers began servicing loans in October 2011. One of the not-for-profit servicers we spoke with, Aspire, chose to leave the federal student loan market in September 2015.

[6]GAO, *Federal Student Loans: Better Oversight Could Improve Defaulted Loan Rehabilitation,* GAO-14-256 (Washington, D.C.: March 2014).

[7]These years coincided with an upgrade to the defaulted loan information system. We assessed the reliability of these data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purpose of our report.

PLUS Loans.[8] The federal government sets limits on the interest rate, loan origination fees and other charges, and annual and aggregate amounts that can be borrowed. There are several repayment plans available to borrowers, including a range of income-driven repayment plans.[9] In addition to being in repayment status, loans may be in: (1) deferment: a period during which repayment of a loan is temporarily suspended—such as while a student with undergraduate loans pursues additional higher education, or in (2) forbearance: a temporary postponement, extension, or reduction of loan payments for up to 12 months that is authorized when a borrower cannot make scheduled payments for certain reasons, such as financial hardship. Interest continues to accrue on loans in forbearance, while the government pays the interest on subsidized loans in deferment. While loans are in repayment, deferment, or forbearance status, they are serviced by contracted service providers.

Management of Defaulted Student Loan Information System Upgrade

In 2003, FSA entered into a 5-year, performance-based contract known as Common Services for Borrowers to improve the management of student loans following disbursement.[10] The contractor was the sole loan servicer for the Direct Loan program and was also expected to modernize and integrate four separate information systems, including for loan servicing and debt collection. However, the contractor experienced significant software development delays and FSA canceled the systems integration effort in May 2007. FSA then began exploring options for

[8]For Subsidized loans, the government pays the interest that accrues while borrowers are in school, during a 6-month grace period after leaving school, and during periods of deferment. For Unsubsidized loans, interest accrues while the borrower is in school or may be paid by the borrower. PLUS loans are available for graduate or professional degree students and parents of dependent undergraduate students, and borrowers are responsible for paying the interest. FSA also issues Direct Consolidation Loans, which allow borrowers to combine multiple existing federal student loans into one loan with one resulting monthly payment. Consolidation loans may allow borrowers to extend their repayment period to up to 30 years, thereby reducing monthly payments.

[9]Income driven repayment plans can help borrowers manage their debt by basing repayment amounts, in part, on borrowers' income. Key features of these income-driven repayment plans range from lower monthly payments and repayment periods of up to 25 years, to forgiveness of any remaining loan balances at the end of the repayment period.

[10]Performance-based contracts specify the desired outcomes and allow the contractor to determine how best to achieve those outcomes, rather than prescribe the methods contractors should use.

upgrading the defaulted loan information system in 2009, and invited six firms, including the original system contractor, to submit proposals. The original contractor subsequently offered to upgrade the system at no additional cost to the government. In June 2010, FSA canceled the request for proposals and modified the original contract to include the upgrade.

Performance-based servicing contracts and oversight

Beginning in 2009, FSA entered into performance-based contracts with additional loan servicers. These contracts were awarded as part of FSA's strategy to improve servicing performance by fostering competition among vendors. Currently, FSA has contracts with four Title IV Additional Servicers (TIVAS) and six not-for-profit (NFP) servicers.[11] Loan servicing includes such activities as communicating with borrowers about the status of their loans, counseling borrowers on selecting repayment plans, and processing payments.

In administering the Direct Loan program, FSA uses numerous tools and activities to oversee the performance of its contractors, including loan servicers and others that provide services in support of student loan administration. FSA issues instructions and guidance to servicers to manage the program that range from guidance on day-to-day operations to contractual changes servicers must implement. In addition to providing written communications, FSA meets with servicers to discuss program operations and policy. FSA also conducts various monitoring activities, including monitoring selected calls between servicers and Direct Loan borrowers to ensure both acceptable customer service and servicer compliance with statutory, regulatory, and contractual requirements.

[11]The not-for-profit service contracts were first awarded in 2011. As of October 2015, FSA had contracts with the following 10 servicers for the Direct Loan program: (1) Four TIVAS: Great Lakes, Pennsylvania Higher Education Assistance Agency/FedLoan, Navient, and Nelnet; and (2) Six NFPs: Missouri Higher Education Loan Authority, EdFinancial, Granite State, Vermont Student Assistance Corporation Federal Loans, CornerStone, and the Oklahoma Student Loan Authority Servicing. A seventh not-for-profit servicer, Aspire, chose to leave the federal student loan market in September 2015.

Lack of FSA Guidance and Instructions to Servicers Results in Inconsistent and Inefficient Services to Borrowers

Some FSA guidance and instructions to servicers is inadequate, resulting in inconsistent and inefficient services to borrowers. While FSA has taken some steps to provide more Direct Loan program guidance and instructions to servicers, six out of the seven servicers we interviewed reported various issues resulting from absent, unclear, and inconsistent guidance and instructions from FSA.[12] As a result, borrowers are likely to have different experiences with the Direct Loan program.

FSA has made some effort to respond to servicers' concerns about its program instructions. For example, in a white paper to FSA, three servicers suggested ways FSA could improve how it provides instructions on program changes. In response to these suggestions, FSA officials told us that they are planning to implement training on the current process for providing instructions in November 2015, and that they now discuss each new instruction with servicers, including any instruction that needs clarification. In addition, FSA officials said they recently put a number of processes in place to assist servicers with implementing a new income driven repayment plan,[13] including job aid documentation to help servicers with their development of training and systems. Nevertheless, we identified a number of inconsistencies caused by a lack of guidance and instructions, such as the following:

- One servicer we interviewed reported that there is a lack of instructions from FSA for some aspects of the Direct Loan program, such as how to apply borrower over- or underpayments to a borrower's balance. This servicer stated that it is clear how they should generally apply borrower payments to student loan balances; however, if borrowers do not provide specific instructions on how to apply a payment that is over or under the monthly payment amount, servicers then have to decide how to apply this to the borrowers' balances. For example, according to this servicer, if a borrower has multiple loans, some servicers spread an overpayment amount evenly across all loans, but other servicers target the higher interest loans first. This servicer also said that FSA has not communicated with

[12]FSA officials told us that instructions to servicers, often in the form of a change request, enable FSA to make program changes on an as-needed basis.

[13]In October 2015, the Department of Education issued a final regulation establishing a new income-driven repayment plan, the Revised Pay As You Earn (REPAYE) Plan to expand repayment options to more borrowers. REPAYE is scheduled to be implemented in December 2015.

them on how to standardize application of such payments. FSA officials stated that they are in the process of working with the Consumer Financial Protection Bureau on establishing a consistent approach for the application of over-and underpayments, but they do not know when this will be finalized. They added that any related requirements for servicers would likely be included when they recompete servicer contracts in early 2016.

- A servicer reported that FSA does not provide sufficient guidance on all documentation that is allowable for income-driven repayment plans, and as a result, each servicer is left to interpret what some of their borrowers submit for proof of income. For example, some servicers treat retirement benefits as income, while others do not. This could potentially cause similarly situated borrowers in the same income-driven repayment plan to have different monthly payment amounts or prevent some from qualifying, depending on who services the loan. FSA officials acknowledged that due to difficulties in deciphering alternative income documentation, servicers could interpret income differently. They also stated that it is difficult to craft guidance that would address the range of these issues. In addition, officials told us that they have finalized a new income-driven application protocol that further outlines processing rules and guidelines.[14] However, this protocol does not provide additional guidance on how servicers should interpret income documentation.

- Three of the servicers we interviewed said FSA has not provided clarification on industry guidance for credit reporting that FSA has directed them to follow. For example, because the industry guidance does not account for specific aspects of the Direct Loan program, it is unclear how servicers should handle credit reporting for unique, program-specific borrower statuses, such as borrowers who had poor credit reports filed right before they were approved to postpone or reduce their payments. As a result, some servicers removed bad credit reports for some borrower statuses while others did not. FSA officials said they were aware of issues with inconsistent credit reporting, and were coordinating with other federal agencies on a review to better understand the impact of student lending on a

[14]FSA officials also described some improvements to how they collect documentation on income information through the tax return process, such as enhancing the income-driven application process in 2012 to allow a borrower to transfer income information directly from the IRS.

consumer's credit score, and that it will be the basis for issuing guidance to create consistency in credit reporting. However, FSA officials could not tell us when this review will be completed. They said that when the review is finished, they expect to implement the new guidance next year.

- FSA is not consistently sharing all clarifications on Direct Loan program instructions with all servicers. Servicers told us that when they ask follow up questions about instructions from FSA, FSA does not routinely share its responses with all servicers, resulting in different servicers potentially receiving different information about the same instructions. For example, one servicer we interviewed expressed concern with the lack of clarity in FSA instructions to address differences across servicers on how interest is applied to loans. According to FSA officials and one servicer that we spoke with, FSA has taken some action to address this lack of consistent instructions, including implementing a new directive to standardize the treatment of interest, developing test scenarios for servicers to use to ensure requirements are consistently implemented, and forming a work group of servicers and FSA staff on this issue. However, this same servicer also pointed out that despite these efforts, additional FSA guidance is in process and still outstanding, and FSA continues not to share questions and answers or clarifications on this issue. FSA officials stated that due to the complexity of the program not all guidance was applicable to all servicers, however they plan to move toward a more consistent process when they recompete servicer contracts in early 2016.

- Servicers expressed the need to further standardize certain aspects of the Direct Loan program and offered several suggestions for improving program servicing consistency through better guidance and instructions. For example, five out of the seven servicers we interviewed stated that overall, they would like FSA to provide more information and clarity on FSA's instructions. Four servicers also expressed the need for a common manual for Direct Loan servicers, similar to the one that exists for the Federal Family Education Loan (FFEL) Program—a program under which loans were provided by nonfederal lenders and repayment guaranteed by the federal

government[15] that would describe and help clarify current student loan requirements.[16] While FSA and servicers share information about the Direct Loan program with borrowers in multiple ways – including online and by email and mail – there is no single manual like this that servicers and borrowers have access to. One higher education association representing financial aid professionals said such a manual should be made widely circulated so borrowers can confirm information on the Direct Loan program themselves. FSA officials told us that when they begin the process of re-competing the contracts for Direct Loan servicing next year, they will evaluate the need for a common manual.

One of FSA's strategic goals is to "develop efficient processes and effective capabilities that are among the best in the private and public sectors," and federal internal control standards state that information should be communicated to those who need it, in a form and within a timeframe that enables them to carry out their responsibilities.[17] Without clear, sufficient, and transparent guidance and instructions to ensure that the Direct Loan program is executed more efficiently and effectively among servicers, borrowers may continue to have inconsistent experiences with the program.

[15]For many years, essentially the same set of loans available under the Direct Loan program were also available through the Federal Family Education Loan (FFEL) program. In March 2010, the Student Aid and Fiscal Responsibility Act, enacted as part of the Health Care and Education Reconciliation Act of 2010, terminated the authority to make new FFEL loans after June 30, 2010. Instead, borrowers who would have been eligible to receive FFEL loans could receive loans made by Education under the Direct Loan program.

[16]The FFEL Program *Common Manual* contains up-to-date federal student loan information, and is designed to help train new financial aid and student loan personnel and to assist the experienced officer in finding answers to questions about federal regulations and policies. The Common Manual provides a single, standardized set of current student loan rules and FFEL policy guidance for schools and lenders.

[17]GAO, *Standards for Internal Control in the Federal Government*, GAO-AIMD-00-21.3.1 (Washington, D.C.: November 1999).

FSA's Monitoring of Calls between Servicers and Borrowers Has Methodological Weaknesses and Is Poorly Documented

Key weaknesses limit FSA's ability to monitor servicers' interaction with borrowers and ensure servicers provide accurate information and good customer service. FSA's Strategic Plan includes a goal to provide superior service and information to borrowers, including taking a data-driven approach to better understanding customers and enhancing customer-facing processes to improve the customer experience.[18] As part of its oversight of Direct Loan servicers, FSA monitors a sample of live and recorded telephone calls between servicers and borrowers, with the stated aim of ensuring exceptional customer service with the greatest accuracy.[19] FSA officials told us they began call monitoring in 2004, but until recently, the agency only monitored incoming calls, which are calls that servicers receive from borrowers. It also did not include any calls from a subcontractor one large servicer was using, even though the subcontractor made most of that servicer's calls to delinquent borrowers. In January 2015, in response to a report from Education's Office of Inspector General, FSA began monitoring incoming calls to all subcontractors, and soon afterward began monitoring outbound calls from servicers and subcontractors.[20]

However, we found that FSA's approach to call monitoring contains notable methodological weaknesses. Our analysis of FSA's monthly reports since it started reporting on outbound calls in March 2015 through July 2015 shows that, of all calls FSA monitored, outbound calls constituted an average of only 9 percent. FSA officials told us they do not know how many outbound calls servicers make, but noted they are far more prevalent than inbound calls. They added that some outbound calls result in a servicer leaving a message rather than having direct contact with a borrower. However, one servicer told us it participates in over 60 times more outbound calls than inbound calls, and all seven servicers we spoke to said outbound calls were a primary method of contacting borrowers in delinquency and approaching default. Therefore, by focusing

[18] *Federal Student Aid Strategic Plan, FY 2012-16*, U.S. Department of Education, Office of Federal Student Aid, December 2011.

[19] *Draft Operations Services Monitoring Procedures*, U.S. Department of Education, Office of Federal Student Aid, (March 30, 2015).

[20] *The U.S. Department of Education's Administration of Student Loan Debt and Repayment*, U.S. Department of Education, Office of Inspector General, (December 2014).

its efforts primarily on inbound calls, FSA may not be focusing its call monitoring on the most frequent and critical types of calls.

In addition, FSA relies on servicers to select recorded calls for its review but has not developed a rigorous methodology that would produce a consistent process among servicers. FSA officials told us that, in the aggregate, approximately 60 percent of the calls they review are live, while the other 40 percent are recorded, though the percentages vary by servicer. For recorded calls, the only guidance FSA provides servicers is that calls should be random; the office does not further delineate how it wishes servicers to select calls to ensure they follow a comparable process. Specifically, FSA's Monitoring Procedures guide states that FSA will review a sample "taken from randomly provided recorded calls," without defining additional parameters, such as whether to draw a random sample from all calls or to ensure the sample includes calls on specific topics. FSA officials confirmed that they do not have specific methods for how servicers should select calls to send, nor do they verify the servicers' call selection process to ensure both its integrity and that calls are being selected in a consistent manner over time and across servicers. The Office of Management and Budget's (OMB) best practices for conducting data collection state that agencies should ensure sample designs will yield the data required to meet the data collection effort's objectives — in this case, ensuring servicers provide exceptional customer service to borrowers with the greatest accuracy.[21] Without a more rigorous methodology and verification process, FSA cannot ensure it reviews a good representation of calls between borrowers and servicers, or that its review is comparable across servicers and across time. FSA officials said they are in the process of implementing more detailed guidance to servicers on selecting recorded calls for review, and they hope to finalize it before the end of the year. According to the draft guidance, servicers will provide a large sample of calls from which FSA will select a subsample. If implemented, this method of selection could provide greater consistency than the current process. However, FSA plans to instruct servicers to include only half as many outbound calls as inbound calls in their sample.

[21]Office of Management and Budget, *Standards and Guidelines for Statistical Surveys* (September 2006). Although FSA's call monitoring samples are not intended to produce results with which to generalize, FSA uses them as an indicator of whether servicer call centers are accurately providing information to borrowers on the Direct Loan program.

Furthermore, the results of FSA's call monitoring are poorly documented, limiting their usefulness for management purposes. Standards for Internal Control in the Federal Government state that information should be recorded and communicated to management and others who need it, in a form and within a timeframe that enables them to carry out their internal control and other responsibilities.[22] However, although FSA began call monitoring in 2004, it did not summarize the results of its call reviews until September 2014. When we asked FSA officials why there was no earlier documentation of call monitoring results, they said they had always shared results verbally with individual servicers and have only recently begun further formalizing the process, including providing written feedback to individual servicers starting in June 2015. We examined the 11 monthly summary reports, from September 2014 through July 2015, that were available at the time of our review. These reports are used for FSA management purposes and summarize results from all servicers, and we found they lacked some key information. For example, one month's summary did not include the total number of calls monitored or the number of calls that did not pass the review. Furthermore, report information sometimes appeared inaccurate or conflicted from month to month. For example, the January 2015 report notes that 10 percent of calls that did not pass review had forbearance issues (such as the representative not properly qualifying a borrower for forbearance), and noted that this is a decrease from previous months. [23] However, the November 2014 and December 2014 reports do not list forbearance as a reason calls did not pass the review, and as a consequence, any decrease cannot be confirmed through FSA's reports.

In addition, the monthly summary reports do not capture the full extent of specific problems, because they only focus on issues that surface in calls that do not pass the review. FSA officials said the database used to record its call monitoring results automatically designates a call as having failed the review when the reviewer notes four or more errors. These errors can range from breaches of etiquette — such as the customer service representative not conducting the call in a pleasant manner — to

[22]GAO, *Standards for Internal Control in the Federal Government*, GAO-AIMD-00-21.3.1 (Washington, D.C.: November 1999).

[23]Forbearance is a temporary postponement, extension, or reduction of loan payments for up to 12 months that is authorized when a borrower cannot make scheduled payments for certain reasons, such as financial hardship.

issues of accuracy, such as the representative providing incorrect information about repayment options. Because the monthly summary reports only note the reasons for calls that fail the review, they do not reflect issues that occur in calls with 3 or fewer errors. For example, if a customer service representative fails to answer all of a borrower's questions, but does not compound this problem with 3 additional errors in the same call, the summary report does not capture this information. Standards for Internal Control in the Federal Government state that internal control monitoring should assess the quality of performance over time. Because not all errors identified in call monitoring are captured in FSA's monthly reports, the reports do not reflect the actual prevalence of particular problems in the calls the agency monitors, and consequently, are insufficient for FSA to analyze the results of its call monitoring over time to inform its management activities. FSA officials said they are aware of the issues with the summary reports and are working to improve their accuracy, consistency, and utility for managers.

FSA's monitoring of servicer phone calls is designed to assist the agency in meeting its goal of providing superior service and information to borrowers, by providing a direct opportunity to monitor how servicers interact with borrowers. However, without a systematic approach to conducting reviews of both inbound and outbound calls and documenting the results of all call reviews, FSA is missing opportunities to target its oversight and improve services to borrowers.

FSA Has Taken Some Steps to Improve Oversight of Loan Rehabilitation

FSA has taken some steps to improve its oversight of loan rehabilitation in response to our March 2014 report.[24] In March 2014, we found that, because of limited planning and oversight, FSA was unable to provide most borrowers who completed loan rehabilitation with timely benefits for more than a year following the October 2011 upgrade of its defaulted loan information system. As a result, borrowers who made a good faith effort to rehabilitate their loans experienced delays in having the defaults removed from their credit reports and reinstating their federal student aid eligibility.

As of March 2014, FSA reported that the original information system, which had been in place since 1989, had become costly to maintain and

[24]GAO-14-256

many manual workarounds had been developed over the years to address emerging requirements. FSA officials said it was also necessary to upgrade the system to handle the increased loan volume that the office was responsible for servicing. However, we found that in moving forward with the upgrade, FSA did not conduct appropriate levels of oversight to ensure successful completion of the work. Specifically, Education's own *Departmental Directive: Contract Monitoring for Program Officials* identified several risk factors that indicated greater contract oversight may be needed, and we found three were applicable to the system upgrade, as shown in table 1.

Table 1: Risk Factors Associated with the Defaulted Student Loan System Upgrade, as of March 2014

Risk factor	Explanation
Contractor with no performance history or an unreliable or unstable performance history or financial condition	The contractor had an unreliable performance history and in fiscal year 2005 FSA issued a cure notice to address concerns about its performance on the original system contract.[a] In addition, the contractor was subsequently acquired by a company that had no performance history with the department.
Whether multiple subcontractors provided services to the contractor	Multiple subcontractors provided a range of services to the contractor during the upgrade.
Degree of interrelatedness with other contracts or projects	The system was set up to receive transfers of defaulted student loans from FSA's loan servicers and provides reports that were used to calculate compensation for collection agencies.

Source: GAO analysis of FSA documentation. | GAO-16-196T

Note: Education's directive identifies four additional potential risk factors that we determined did not apply to the system upgrade: (1) a variable-price contract (the contract was fixed-price, presenting less cost risk to the government); (2) newly-incorporated or emerging organizations; (3) a high dollar amount (the contractor agreed to upgrade the system at no-additional cost to the government as part of broader negotiations on this contract); and (4) a contract with poorly defined objectives, unclear acceptance criteria, or contract requirements that are constantly changing.

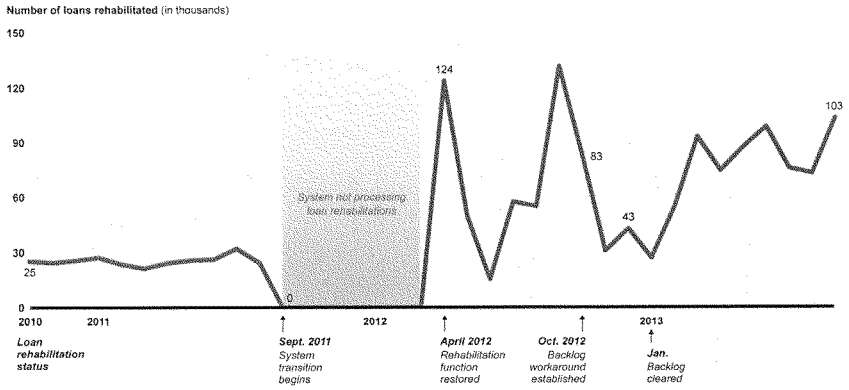
[a]A cure notice informs the contractor that the government considers the contractor's failure to make progress as endangering performance of the contract, or the contractor has failed to perform contractual provisions other than delivery of supplies or performance of services. The cure notice specifies a period (typically 10 days) for the contractor to remedy the condition. If the condition is not corrected within this period, the cure notice states that the contractor may face termination of its contract for default. 48 C.F.R. § 49.402-3.

Despite these risks, in March 2014, we reported that FSA did not have plans in place for monitoring the upgrade, and we found limited evidence of oversight conducted. For example, FSA had not updated its monitoring plan for the system contract until about a year after the upgrade work began and performance problems, such as missed deadlines, had occurred. FSA officials also acknowledged that they had not documented many of their monitoring activities. Moreover, we found FSA's testing of the new information system, which began in February 2011, was insufficient to detect problems associated with loan rehabilitation. For

example, FSA had not learned until shortly after the launch that the system did not recognize when borrowers had made nine on-time payments in 10 months because it had not tested this function. Officials explained that testing in a 7-month time frame did not allow loan rehabilitation to be fully tested.

As a result of the system challenges, no loan rehabilitations were processed from September 2011 through March 2012, and FSA officials said they needed until January 2013 to clear the resulting backlog (see fig. 1).

Figure 1: Number of Loan Rehabilitations Processed, Fiscal Years 2011 through 2013



Source: GAO summary of Office of Federal Student Aid (FSA) data. | GAO-16-196T

As we previously reported, soon after the upgrade began, FSA worked with the contractor to identify and correct the problems and took some steps to hold the contractor accountable and assist borrowers.

- **Efforts to hold the contractor accountable.** While the system upgrade was completed at no additional cost to the government, the contractor also provided other services under the contract, such as loan servicing and providing FSA with access to its data centers. In September 2011, FSA began assessing the contractor financial

penalties due to implementation delays. In February 2012, when the problems were still not resolved, FSA notified the contractor via a cure notice that it could default on the contract unless adequate progress was made on the upgrade issues.[25] In November 2013, FSA reported withholding approximately $14 million from total payments to the contractor for other services provided under the contract.

- **Efforts to assist borrowers.** FSA established procedures in November 2011 to assist eligible borrowers by removing defaults from their credit reports or reinstating their eligibility for student aid. However, borrowers had to contact the department or their collection agency to receive the assistance.[26]

As we reported in March 2014, when FSA's upgraded information system began processing loan rehabilitations in April 2012, the system still did not always recognize that eligible accounts had satisfied the requirements for loan rehabilitation. As a result, FSA had to implement system workarounds and begin manually processing loan rehabilitations. While FSA officials reported they stopped using manual processing in September 2013, they acknowledged that the system still required workarounds and a substantial amount of development work was needed to address remaining issues. At the time of our March 2014 report, FSA expected the work to be completed under a new contract, which was awarded in September 2013.

To strengthen FSA's oversight of the defaulted student loan information system contract, in our March 2014 report we recommended that FSA take steps to ensure that the final monitoring plan for the new contract identified risks and the oversight activities planned to address them. FSA agreed with the recommendation and reported that it has developed a

[25]A cure notice informs the contractor that the government considers the contractor's failure to make progress as endangering performance of the contract, or the contractor has failed to perform contractual provisions other than delivery of supplies or performance of services. The cure notice specifies a period (typically 10 days) for the contractor to remedy the condition. If the condition is not corrected within this period, the cure notice states that the contractor may face termination of its contract for default. 48 C.F.R. § 49.402-3.

[26]FSA officials said they provided such benefits to about 7,600 borrowers—less than 10 percent—of the estimated 80,000 borrowers who were affected during the time the system was not processing rehabilitations. FSA officials said they did not systematically track when assistance was provided, and these rehabilitations were not processed through the system until April 2012 or later.

contract monitoring plan that tracks explicit deliverables related to key risk areas and is using a management approach that includes risk monitoring and mitigation strategies. FSA also reported working with an independent verification and validation service to ensure that the new system contractor establishes the appropriate controls and processes. While these are positive steps, Education's Office of Inspector General recently reported[27] ongoing concerns regarding Education's oversight of the system contract. For example, the Inspector General found that FSA did not update its plan for correcting the defaulted loan information system deficiencies until more than 9 months after the new contract work began, a delay that raises questions about the level of oversight FSA is providing. Accordingly, we will continue to monitor how FSA builds upon and sustains these efforts over time to ensure it is providing appropriate levels of contract oversight.

In March 2014, we also found that FSA lacked data and related performance measures to inform its management and oversight of loan rehabilitation. According to FSA's Fiscal Year 2011-2015 Strategic Plan, Education needs to be able to collect, analyze, and use customer data to achieve its goals of providing superior service and information to students and ensuring program integrity and safeguarding taxpayers' interests. Even though FSA was able to track the number of loans being rehabilitated during the system transition, it had not developed performance data to assess the number or extent of individual borrower delays, or the extent to which borrowers who rehabilitate their loans stay out of default. To address this issue, we recommended that FSA develop an approach for tracking loan rehabilitation performance. FSA agreed with the recommendation and reported that it had developed reports to track whether eligible borrowers had actually completed the loan rehabilitation process, and a June 2015 analysis showed all loans were being rehabilitated successfully within one week of becoming eligible. While this is a positive step, we are awaiting additional information from FSA regarding its methodology and the steps it has taken to ensure they fully address rehabilitation process issues.

[27]U.S. Department of Education, Office of Inspector General, *Review of Debt Management Collection System 2 (DMCS2) Implementation*, ED-OIG/A04N0004, August 24, 2015. See also, U.S. Department of Education, Office of Inspector General, *Functionality of the Debt Management Collection System 2*, ED-OIG/A02N0004, November 5, 2015.

Conclusions

Education's Office of Federal Student Aid faces challenges in the management of the Direct Loan program that affect its ability to function effectively as a performance-based organization. If the agency fails to strengthen its instructions and guidance to servicers, there will continue to be areas of inconsistent implementation, and differences between servicers could have financial consequences that hurt borrowers or risk the integrity of the program. Furthermore, without a robust, systematic process for monitoring and documenting calls between borrowers and servicers, FSA may miss opportunities to ensure program integrity and improve services to borrowers.

Recommendations

To strengthen management of the Direct Loan Program and ensure good customer service for borrowers, we recommend the Secretary of Education direct the Office of Federal Student Aid's Chief Operating Officer to take the following three actions:

1. Review its methods of providing instructions and guidance to servicers, identifying areas to improve clarity and sufficiency, and ensure consistent delivery of instructions and guidance to ensure program integrity and improve service to borrowers. For example, the Department could consider implementing a detailed, common servicing manual for the Direct Loan program.
2. Implement a more rigorous methodology for selecting recorded calls between servicers and borrowers to review, including a clearer definition of the sample servicers should select, a sample that targets more critical and more frequent types of calls, and a verification process to ensure integrity of the call selection process.
3. Better document call monitoring results to allow analysis of trends over time and facilitate the sharing of complete and consistent information from these efforts with FSA management.

Chairman Meadows and Chairwoman Foxx, Ranking Members Connolly and Hinojosa, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contacts and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact me at (617) 788-0534 or emreyarrasm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Key contributors to this testimony were Kris Nguyen (Assistant Director), Kristy Kennedy, Timothy Shaw, Mark Ward, and Rebecca Woiwode. Providing legal or technical

assistance were James Bennett, Jessica Botsford, Jean McSween, and Charlie Willson. For contributors to our report on defaulted loan rehabilitation, see GAO-14-256.

Mr. MEADOWS. Thank you.

Inspector General Tighe, you are recognized for 5 minutes.

STATEMENT OF THE HON. KATHLEEN TIGHE

Ms. TIGHE. Thank you all for inviting me here today to discuss the work of the Office of Inspector General involving the U.S. Department of Education's Office of Federal Student Aid as a performance-based organization.

As many of you know, the Federal Student Aid programs have long been a major focus of our audit and investigative work, as these programs are large, complex, and susceptible to fraud and abuse. We look to promote efficiency and effectiveness in FSA programs and operations and, in doing so, help to protect America's students from harm and help safeguard the taxpayers' investment in higher education.

As already noted during this hearing, FSA delivered about $130 billion in student aid this year to 13 million students and managed an outstanding loan portfolio that has grown to $1.2 trillion. This makes FSA one of the largest financial institutions in the country.

As a PBO, FSA is responsible for managing both the oversight and administrative functions that support these programs. In 2008, we determined that FSA was not completely fulfilling its responsibilities as a PBO in the areas of systems integration, cost reduction, and planning and reporting. The work we have performed since 2008 has focused in significant part on areas within FSA's oversight and administrative responsibilities.

That work continues to identify problems in FSA's oversight of program participants. For example, our 2015 audit found weaknesses in FSA's process for performing program reviews, including that staff did not adequately document fiscal testing for timely disbursements or determine whether schools had implemented Direct Loan quality assurance systems, and there was limited evidence of supervisory reviews, all of which may leave FSA with limited assurance that program reviews are appropriately identifying and reporting instances of noncompliance.

Another 2015 audit found that FSA's followup process for OIG's external audits was not always effective because audits were not always closed timely and FSA did not always maintain appropriate documentation to show that corrective actions were completed. Not ensuring corrective actions are taken as quickly as possible allows deficiencies to continue to exist, and the risk remains that related programs were not effectively managed and that taxpayer funds are not being used as intended.

FSA, as a PBO, also has the responsibility for managing the administrative functions of the Title IV programs. Recent OIG work has identified weaknesses in this area. For example, results from our recent improper payments audits found that FSA has not taken full advantage of the Improper Payments Elimination and Recovery Act to identify and reduce improper payments in the Pell grant and Direct Loan Programs. We have identified issues with FSA's improper payment methodologies that render its improper-payment estimates for these programs inaccurate, incomplete, and unreliable.

OIG worked conducted over the last several years has also identified weaknesses in FSA's contract management—an area of concern, as FSA relies heavily on contractor support to accomplish the purposes of the PBO.

We have seen weaknesses in FSA's monitoring of its debt management system, its contracts with the Title IV servicers, and its contracts with private collection agencies. We have identified issues such as not ensuring contract milestones were met, lack of proper invoice validation, the failure to confirm the adequacy of deliverables, and the failure to ensure adequate IT security of contractor-operated systems.

Without improved contractor monitoring, FSA has limited assurance that it is receiving the products and services it is paying for, impacting both students' and taxpayers' interests.

My written testimony provides more detailed information on these findings as well as other examples of our recent work that shows that FSA needs to improve its oversight and management so as to ensure Title IV programs are serving the interests of students.

For the next reauthorization of the Higher Education Act, Congress may want to consider adding specific requirements for oversight and contract management to the purposes and functions of the PBO and require FSA's performance plans to establish measurable goals and objectives in these areas.

My office is committed to working with FSA, the Department, and Congress to address the areas of risk within the Federal Student Aid programs to reduce fraud and abuse.

Thank you very much.

[Prepared statement of Ms. Tighe follows:]

Statement of Inspector General Kathleen S. Tighe
U.S. Department of Education
Before the Committee on Oversight and Government Reform
Subcommittee on Government Operations and the
Committee on Education and the Workforce
Subcommittee on Higher Education and Workforce Training
United States House of Representatives
November 18, 2015

Chairman Meadows, Chairwoman Foxx, Ranking Member Connolly, Ranking Member Hinojosa, and members of the Subcommittees:

Thank you for inviting me here today to discuss the work of the U.S. Department of Education (Department) Office of Inspector General (OIG) involving the Department's office of Federal Student Aid (FSA). As many of you know, the Federal student aid programs have long been a major focus of the OIG's audit and investigative work, as these programs have been considered the most susceptible to fraud and abuse. The programs are large, complex, and inherently risky due to their design, reliance on numerous entities, and the nature of the student population. In conducting our work, we look to promote efficiency and effectiveness in Federal student aid programs. We also work to protect America's students from harm and help to safeguard the taxpayer's investment in education. My office has produced volumes of significant work involving the Federal student aid programs since our inception 35 years ago, which has led to changes to the Higher Education Act of 1965, as amended (HEA), implementing regulations, and Departmental operations.

FSA as a Performance-Based Organization

Today's hearing focuses on FSA as a Performance-Based Organization (PBO). The 1998 amendments to the HEA mandated that the Department establish a PBO as a discrete unit responsible for managing the operational functions supporting the Federal student aid programs.[1] FSA was designated as the PBO. In 2008, the OIG conducted an audit to determine whether FSA was meeting its responsibilities as a PBO in three key areas: planning and reporting, systems integration, and cost reduction. The audit found that FSA was not completely fulfilling its responsibilities in those areas. First, FSA's planning and reporting processes were not always effective or efficient, as it did not issue its first 5-year performance plan until 2004—6 years after it became a PBO, and none of the strategic objectives included in the plan were measurable or quantifiable. Second, in reviewing FSA's systems integration efforts, our audit revealed that FSA had not made significant progress in completing activities designed to integrate its student financial assistance systems and therefore was unable to realize the expected benefits of systems integration. Third, we found that FSA's progress towards the reduction of program administration costs was uncertain as it had not yet established measurable strategic goals in the area of cost reduction and its anticipated cost savings from three of four major system initiatives it had identified were not expected to be realized until after fiscal year (FY) 2008 and beyond.

Much has changed since our 2008 audit. In 2010, there was a significant shift in FSA's operations with passage of legislation eliminating the origination of new Federal Family Education Loan Program (FFELP) loans and requiring that all new Federal student loans be originated under the William D. Ford Federal Direct Loan (Direct Loan) program. This resulted

[1] The 1998 amendments also authorized the Secretary to assign additional functions to the PBO. In 2008, the Higher Education Opportunity Act amended the responsibilities of the PBO to include oversight responsibility that had previously been assigned to the PBO by the Secretary.

in a significant increase in the work done for FSA by contractors for the Direct Loan program for the originating, disbursement, and servicing of the loans, resulting in the need for additional contractor oversight by FSA. As FSA took on these added responsibilities, it still continued overseeing the guaranty agencies and the thousands of FFELP lenders who continue to service the existing FFELP loans during the wind down of the program. FSA must continue to provide services to students and also ensure school compliance with requirements of Title IV of the HEA. The Federal student aid programs also have grown dramatically: Federal student aid delivered by FSA increased from $82 billion in 2008 to almost $130 billion in 2015; the number of students served has more than doubled, increasing from 6.2 million in 2008 to 13 million in 2015. During the same time period, the portfolio of Federal loans has grown from $359 billion to more than $1.2 trillion, making FSA one of the largest financial institutions in the country. Although we have not conducted an audit of FSA as a PBO since 2008, we have issued more than 80 audit, inspection, and other reports involving Federal student aid programs and operations since that time. This work forms the foundation for my testimony today, where I will focus on our recent work related to FSA's oversight and administrative responsibilities.

FSA Oversight

Title I, Part D of the HEA lays out seven purposes of FSA as a PBO that include improving services to students, increasing accountability, implementing open and common systems for delivery of funds, and developing systems to provide accurate data to ensure program integrity. To achieve its mission as a PBO, FSA has established five strategic goals, two of which are that (1) it will work to ensure that all participants in the system of postsecondary funding serve the interests of students, and (2) it will ensure program integrity and safeguard taxpayers' interests. Further, Congress has stressed the importance of ensuring that the interests of students are

served. In 2008, the U.S. House of Representatives Committee on Education and Labor report for the Higher Education Opportunity Act stated, "[t]he nation's financial aid system exists for a single purpose: to serve students and their families." Additionally, the U.S. Senate Committee on Health, Education, Labor, and Pensions stated in a 2007 report on proposed amendments to the HEA that "[t]he committee believes strongly that lenders, guaranty agencies and institutions of higher education must act with honesty and integrity at all times to ensure that the financial aid programs under title IV serve the best interests of students." Our work over the last three years has shown that FSA needs to improve its oversight so as to ensure that all participants in the Title IV programs are serving the interests of students. When FSA does not ensure that the interests of students are being served, it is also not ensuring the integrity of the Federal student aid programs or that the taxpayers' interests in postsecondary education are protected.

Audit Resolution

One of the means of discouraging abuses by participants in the postsecondary education funding process is having a robust process for ensuring audit recommendations to external entities are timely and effectively resolved and corrective actions are taken. In 2013, I testified before the House Oversight and Government Reform Committee on the issue of audit resolution and recommendations made in OIG reports that the Department had not yet implemented. I testified that although the Department had made progress in resolving internal audits,[2] improvements were needed in its processes to resolve external audits.[3] External OIG audit reports generally include recommendations for Department management to require the external entity to take corrective action. These recommendations may be for the entity to return funds to the Department or for the entity to

[2] *Internal audits* identify deficiencies and recommend improvements in Department operations and programs to ensure that the Department is using Federal education funds effectively and efficiently and accomplishing program goals.

[3] *External audits* are of external entities that receive funding from the Department, such as institutions of higher education (schools).

improve operations or internal controls. At present, and we report in our most recent Semiannual Report to Congress, the Department has not yet resolved 7 external audits that include 84 recommendations for corrective actions and monetary recommendations totaling more than $47.3 million.

In 2015, we issued an audit report on FSA's audit follow-up processes for recommendations made in OIG external audits. We found that FSA did not close[4] audits timely and did not adequately maintain documentation of audit follow-up activities. Between October 1, 2008, and September 30, 2013, FSA had resolved[5] a total of 36 external OIG audit reports, but only 1 audit had been closed. The total of the monetary recommendations associated with the 36 resolved audits was more than $1.3 billion. We also found that FSA did not adequately maintain documentation that showed requested corrective actions were completed or were being monitored for completion. Not requiring external entities to take timely corrective action diminishes the deterrent value of OIG audits and their impact on ensuring student and taxpayer interests are protected. By not obtaining or maintaining appropriate documentation, FSA did not have assurance that identified deficiencies had actually been corrected. As such, the risk remains that related programs are not effectively managed and taxpayer funds are not being used as intended.

Program Reviews

In addition to our own audits of external entities, FSA performs program reviews of schools to ensure that student and taxpayer interests are protected. Our 2015 audit of FSA's school program review function showed significant weaknesses in FSA's oversight of schools participating in the

[4] An audit is *closed* when the Department determines that the agreed-upon actions have been completed.
[5] An audit is *resolved* when the Department and OIG agree on the corrective action to be taken to address our findings and recommendations.

Title IV programs. We found that FSA's program review specialists did not always conduct program reviews in accordance with FSA's program review procedures. Specifically, required forms and documents were missing from the program review files, and staff did not always complete forms, adequately document fiscal testing for timely disbursement of funds, determine whether schools had implemented Direct Loan quality assurance systems, and conduct distance education program reviews; there was also a lack of supervisory review. In addition, we found that FSA managers did not consider high annual dropout rates for prioritizing program reviews as required by the HEA. In 2014, FSA updated its program review quality control process such that staff should identify deficiencies such as the lack of documentation and supervisory review. However, there was no requirement that corrective action be taken on any recommendations.

We also analyzed the program review process as part of our 2014 audit of FSA's oversight of schools' compliance with the incentive compensation ban (which prohibits schools participating in the Federal student aid programs from providing any bonus or incentive payment to any person or entity for their success in securing school enrollments or awarding of Federal student aid). We found that FSA's program review policies and guidance were insufficient and not always followed; we also found that FSA did not properly resolve incentive compensation ban findings and singularly relied on imposing fines on schools found to have violated the incentive compensation ban. My office has a long history of identifying harm to students as a result of incentive compensation practices by schools. When the Department issued the incentive compensation safe harbors in 2002, we non-concurred with the final regulations. When the Department eliminated the safe harbors in 2010, we anticipated that the Department and FSA would revise their enforcement policies to provide instructions to employees on appropriate

sanctions to enforce the ban, including severe administrative actions for egregious behavior. Unfortunately, we found in our review that this was not the case. Our work through the years has shown that incentive compensation has led to aggressive recruiting practices by unscrupulous school owners that prey on vulnerable students, harming both students and taxpayers.

School Third Party Servicers

Our 2014 review of schools' use of third party servicers—such as banks or other financial services companies—providing debit cards to deliver Federal student aid to students determined that FSA should take action to better ensure that student interest are served. When schools use servicers to deliver credit balances, FSA and schools need to do a better job at monitoring debit card servicers to protect student interests, such as ensuring that they do not charge fees for delivery of Title IV funds, and that they protect students' personally identifiable information. Although the Department did develop regulations concerning the use of debit cards and third party servicers for the disbursement of Federal student aid, it was not until the issue was identified outside of the Department and we had initiated this audit that the Department moved towards a regulatory framework to address the identified issues.

School Closures

Prior to the collapse of Corinthian Colleges, my office was concerned about FSA's oversight of schools that might close precipitously. Because of this concern, we performed an inspection to determine whether FSA was monitoring schools to be prepared for a sudden closure. Our 2014 inspection found although FSA had created a Publicly Traded and Large School Workgroup, the workgroup had not met regularly since its inception, nearly three years before our inspection, and that the financial analysts had not regularly or systematically used data from outside of FSA to assist in monitoring schools or in selecting program reviews. We also found that information for

students in the event of a school closure was located in various places on FSA's Web site, making relevant information more difficult for students to find. In addition, FSA's procedures did not provide clear guidance on how analysts should perform outreach to students affected by a school closure and did not provide for a process that analysts should follow in the event of a sudden closure. The collapse of a large school can harm both students who may be unable to complete their education and taxpayers for the cost of any loans that are discharged as a result of the closure.

Distance Education

The unique characteristics and growth of distance education pose another significant challenge to the Department. Through our audit and investigative work, we have noted an increasing risk of people attempting to fraudulently obtain Federal student aid from distance education programs. The OIG issued an investigative program advisory report in 2011 alerting FSA to significant fraud vulnerability in distance education programs: distance education "fraud rings." Fraud rings are large, loosely affiliated groups of criminals who seek to exploit distance education programs in order to fraudulently obtain Federal student aid. In 2005, the OIG had opened 16 distance education fraud ring investigations; as of July 28, 2015, the OIG had opened 146. All aspects of distance education—admission, student financial aid, and course instruction—may take place through the Internet, so students may not be required to present themselves in person at any point. Because institutions offering distance education are not required to verify all prospective and enrolled students' identities, fraud ringleaders use the identities of others (with or without their consent) to target distance education programs. These fraud rings mainly target lower cost institutions because the Federal student aid awards are sufficient to satisfy institutional charges

and result in disbursement of the balance of an award to the student for other educational expenses.

Since our 2011 report and other work we have completed on distance education, FSA has implemented several controls, including expanded data analysis capabilities to detect patterns and predict potential fraud, in addition to enhanced verification requirements. For example, it is now incumbent on schools to verify certain data elements, such as student identity and completion of secondary school or its equivalent. FSA has also expanded the program review procedures to strengthen oversight of distance education programs. Although FSA has implemented some controls, fraud rings continue to be a significant area of concern.

FSA Management of Administrative Functions

The HEA provides that FSA as a PBO has responsibility for managing the administrative functions of the Title IV programs. Recent OIG work has identified weaknesses in this area, specifically: (1) FSA's improper payment estimates for the Pell Grant and Direct Loan programs and (2) FSA's management of contractors, including its actions addressing functional deficiencies with the Debt Management and Collection System 2 (DMCS2). Weaknesses in this area undermine FSA's strategic objectives to ensure that all participants in the system of postsecondary funding serve the interests of students, ensure program integrity, and safeguard taxpayers' interests.

Improper Payments

As you know, under the Improper Payments Elimination and Recovery Act (IPERA), Federal agencies are required to periodically review all programs and activities that the agency administers and identify all programs and activities that may be susceptible to significant

improper payments. The Department identified the Pell Grant and Direct Loan programs as susceptible to significant improper payments. IPERA also requires each agency's Inspector General to determine the agency's compliance with the statute for each fiscal year. As reported in each of our IPERA reviews, FSA has not taken full advantage of IPERA to improve its operations and identify and reduce improper payments in the Pell Grant and Direct Loan programs. For FY 2012 and 2013, we reported that the Department complied with IPERA, but we identified weaknesses in the methodology used to calculate improper payments in both years.

For FY 2014, we reported that the Department did not comply with IPERA because it did not meet the annual reduction target for the Direct Loan program. In addition, we found that the improper payment estimates and estimation methodologies for both the Pell Grant and Direct Loan programs were inaccurate, incomplete, and unreliable such that we could not conclude that the Department actually met its reduction target for the Pell Grant program. We also found that the estimates deviated from the OMB-approved methodologies that were in effect at the time. When we informed FSA that it had deviated from the approved OMB methodology, it requested and received retroactive approval from OMB to use an alternative methodology, although we continue to have concerns about the methodology approved. As we noted in previous IPERA reviews, when the Department initially proposed relying on program reviews for its estimation methodologies, we determined that reliance was flawed because it excluded other sources of improper payments, such as the inaccurate self-reporting of income on the FAFSA, which FSA had identified as a root cause of Pell Grant improper payments in previous years. In addition to the inherent weaknesses involved with using program reviews to estimate improper payments noted in our IPERA audits, our review of FSA's program review function

noted above concluded that because the results of program reviews are used in the calculation of the Department's annual estimates of improper payments for the Pell and the Direct Loan Programs, under IPERA, the estimates may not be valid due to the significant weaknesses in the program review function we identified. Yet despite these inherent weaknesses, the Department continues to use program reviews as the sole source of information to estimate improper payments for the Pell Grant program and OMB continues to approve that methodology.

Contractor Management

FSA relies heavily on contactor support to accomplish the purposes of the PBO, particularly as it relates to managing the administrative functions of the Title IV programs. Our work has identified numerous deficiencies in contract monitoring. For example, our 2013 audit of FSA's oversight of the Title IV Additional Servicers (TIVAS) contracts, we found that although FSA had negotiated cost effective rates, it did not properly validate invoices, resulting in our conclusion that there was a heightened risk that invoices from and payments to the TIVAS totaling over $330 million were inaccurate. In addition, we could not determine whether FSA selected the most efficient and cost-effective prices for 18 of the 21 changes it made to the TIVAS contracts. In addition, because FSA did not confirm the timeliness and adequacy of deliverables, it could not ensure that the TIVAS complied with the contract terms. Our 2014 audit that reviewed student loan debt and repayment activities found that FSA did not explicitly establish minimum default prevention activities in its 2009 contract with the TIVAS, although FSA did incorporate these requirements in the 2013 contracts. We also found that FSA did not adequately monitor calls to delinquent borrowers.

In our 2014 audit of FSA's handling of complaints against Private Collection Agencies (PCAs) by borrowers, we found that FSA did not effectively monitor borrower complaints against PCAs and ensure that corrective actions were taken. This resulted in FSA not knowing the magnitude of the problems that borrowers were encountering and FSA not holding PCAs accountable. In addition, FSA did not ensure that corrective actions were taken by PCAs for valid borrower complaints against them to ensure that similar harm to borrowers would not occur in the future.

In 2012, we alerted FSA that DMCS2, FSA's system for managing defaulted student loans, operated by a contractor, was unable to accept the transfer of certain defaulted student loans from FSA's Title IV servicers. At the time of our audit, the entities that service Federal student loans had accumulated more than $1.1 billion in defaulted loans that should have been transferred to the Department for management and collection. This hampered FSA's ability to pursue collection remedies and perhaps more importantly, left borrowers unable to take steps to remove their loans from default status. As a result of the issues with DMCS2, both the Department's Agency Financial Report and FSA's Annual Report for fiscal year (FY) 2012 noted a material weakness resulting from deficiencies with DMCS2 and the ACS, Inc., Educational Servicing systems—the legacy Direct Loan servicing system. The audits found repeat deficiencies in financial reporting processes, and other controls surrounding information systems. The FY 2013 financial statement audit noted that although issues with DMCS2 no longer rose to the level of material weakness, they still represented a significant deficiency. By FY 2014, DMSC2 issues did not materially impact the financial statement.

On November 6, 2015, we issued a report on FSA's determinations that aspects of DMCS2 were functional. In that audit, we found that FSA did not always accurately assess the operational status of various aspects of DMCS2 as of March 2013. This assessment formed the basis for the operational status of DMCS2 that guided the transition to a new contractor, Maximus. Earlier, in August 2015, we issued an audit of FSA's plan to correct significant DMCS2 deficiencies and found that FSA could not ensure that the original contractor delivered a fully functional system because it did not develop an adequate plan, did not ensure milestones were met, did not hold the contractor accountable for missing milestones, and did not use appropriate systems development tools.

FSA responded to the deficiencies identified during the course of our audit by incorporating elements of lifecycle management methodology (LMM) and penalties for missed milestones into its new contract with Maximus; FSA also awarded a separate independent validation and verification contract. Our August report found that FSA's contract with Maximus and its other corrective actions provide a methodology that, if properly implemented, increases the likelihood that Maximus will identify and timely correct DMCS2 system deficiencies. However, we found that FSA did not update its presolicitation baseline plan of expectations for correcting the DMCS2 deficiencies until December 23, 2014, more than 9 months after Maximus began working on DMCS2. As such, we are concerned that FSA's delay in updating the tailoring plan may be an indication that FSA is not fully implementing its LMM. We identified additional opportunities for FSA to improve its oversight of the Maximus contract.

During the course of our FY 2015 Federal Information Security Management Act audit, Total Systems Servicers, Inc. (TSYS), a subcontractor that operates the FSA's Common Origination

and Disbursement (COD) system in Georgia, refused to provide the OIG with documentation reflecting a complete listing of all userids with privileges to the TSYS mainframe on which COD rests. COD is a critical business system because FSA relies on it to deliver Pell Grants and Direct Loans and it contains PII for financial aid recipients. Despite having signed an agreement that allowed us to acquire all needed information, TSYS restricted the OIG testing team's access to certain information. After repeated requests, TSYS provided a copy of Education userids with privileges, but redacted all other userids with privileges in the mainframe environment. Without this data, the OIG was unable to complete a comprehensive vulnerability assessment of the environment and determine whether other customers on the mainframe could improperly access Department data. When we brought this access issue to FSA's attention, FSA was unable to achieve the needed access and was not able to obtain a copy of the contract between the prime contractor and TSYS.

Conclusion

The work we have performed since our 2008 PBO audit has focused in significant part on areas within FSA's oversight and administrative responsibilities. Our work continues to identify problems in FSA's oversight of participants in the Federal student aid programs, its efforts to identify and reduce improper payments, and its contract management to ensure program integrity and better safeguard taxpayers' interests. For the next reauthorization of the HEA, Congress may want to consider adding specific requirements for oversight and contract management to the purposes and functions of the PBO and require the PBO performance plan to establish measurable goals and objectives in these areas. The PBO annual report should also contain an evaluation of those goals and objectives. My office is committed to ensuring integrity and efficiency in the Federal student aid programs and working with FSA, the Department, and

Congress to address areas of risk within these programs to reduce fraud and abuse. I am happy to answer any of your questions.

Mr. MEADOWS. Thank you, Inspector General. And thank you for your insightful report.

Mr. Miller, you are recognized for 5 minutes.

STATEMENT OF BEN MILLER

Mr. MILLER. Good morning. Thank you, Chairman Meadows, Chairwoman Foxx, Ranking Member Maloney and Ranking Member Hinojosa and members of the committee, for having me today.

This month marks the 50th anniversary of the Higher Education Act, landmark legislation that has made our country stronger by allowing millions of low- and middle-income Americans to access and afford college.

But, today, the growing price of college threatens to undermine the goals of the Higher Education Act. State disinvestment keeps driving public tuition higher, no longer can part-time work afford tuition bills, and family incomes have stagnated. As a result, Federal student loans are now the norm for people in college. Today, over 40 million Americans owe a collective $1.18 trillion in Federal student loans. Seventy percent of bachelor's-degree graduates borrow for college.

Under current law, the Federal Student Aid office, or FSA, cannot fix the underlying conditions that leads students to borrow. But a strong, effective, and efficient FSA is still important for students. It can help them apply for aid easily, get dollars to them when they need it, guide them through the repayment process, and protect them from bad actors lurking throughout the system.

In the last several years, FSA has done a lot to meet these goals. It has made applying for aid simpler and faster by using skip logic on questions and allowing for the easy importation of tax data. Next fall, it will implement a policy change known as prior-prior-year that helps families apply for aid sooner and better plan for college costs. This idea has bipartisan, bicameral support. FSA has also implemented repayment options that allow borrowers to make affordable payments based upon their income.

Perhaps the greatest sign of FSA's recent successes was the 2010 transition following legislation that required all Federal loans be issued by the Department of Education. FSA worked with thousands of institutions to make this change in just 3 months, and students saw no interruption in their flow of aid dollars. This change also saved taxpayers money by no longer having to pay expensive subsidies and guarantees to lenders, in exchange for offering an undifferentiated product whose terms were set by Congress.

These are all important developments that have helped the government's benefits work better for the students who receive them. They show FSA's strong commitment to getting dollars to students quickly and on time. And they show the importance of having an agency structure with clear goals for efficiency and effectiveness.

Still, there are places where Federal Student Aid can be strengthened, possibly through changes to its structure. For one, FSA and Congress must determine how to better use oversight tools and accountability metrics to protect students from institutions that take advantage of them.

Yesterday's announcement that 85,000 former Corinthian students may be eligible for loan discharges and Monday's nearly $100

million settlement between the Federal Government and the Education Management Corporation show the importance of early action to weed out bad colleges. The government alleged EDMC improperly compensated recruiters in an operation where it sought anyone with "a Pell and a pulse," yet the company still received billions in Federal aid over the last several years.

Second, FSA should demand its contractors better serve students. Today, it contracts with four companies that service the majority of student loans and is required to work with several others through a congressional earmark. In the mid-2000s, the inspector general found that three of the four main servicers and several of the earmarked ones had improperly billed the government millions of dollars for inflated loan subsidies. One of them also settled a claim by the U.S. Department of Justice for overcharging servicemembers.

These are servicers whose prior behavior suggests the need for significant scrutiny to protect students and taxpayers. Fortunately, the move to direct lending and the fact that these individuals are all contractors means that FSA can address these challenges through changes much more easily than it could in the old bank-based system.

Finally, the public and policymakers need additional performance data about institutions, servicers, and the loan portfolio. In particular, greater information about loan delinquency by institution, outcomes for borrowers in forbearance, and what happened to borrowers before they defaulted would help guide policy changes that better serve students. A greater use of data for risk analysis could also lead to new pricing structures for servicers and collectors that reward them for helping the most vulnerable borrowers.

But strengthening FSA cannot be our only strategy for addressing affordability. We must act to address the underlying structural problems that drive up price and debt. We must tackle State disinvestment and encourage colleges to improve and spend sensibly. Doing so is the best way to ensure the Higher Education Act continues to meet its goals for the next 50 years.

Thank you again for having me today, and I look forward to your questions.

[Prepared statement of Mr. Miller follows:]

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Statement of Ben Miller
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Before the
United States House of Representatives Committee on Oversight and Government Reform,
Subcommittee on Government Operations
and
United States House of Representatives Education and the Workforce Committee
Subcommittee on Higher Education and Workforce Training
November 18, 2015

Chairman Meadows, Chairwoman Foxx, Ranking Member Connolly, and Ranking Member Hinojosa, thank you very much for the invitation to testify before you today.

My name is Ben Miller, and I am the senior director for postsecondary education at the Center for American Progress, where I conduct and publish research and analysis on higher education and student debt. I also had the honor of serving in the Obama Administration from 2011 to 2013. I worked in the Office of Planning, Evaluation, and Policy Development at the Department of Education, where I worked closely with the Federal Student Aid (FSA) office.

With Congress discussing the reauthorization of the Higher Education Act, now is the time to think about what can be done to make FSA more successful in the future while preserving the things it does well. This is an important debate. Making sure that FSA is effective, efficient, and working in the best interests of students and taxpayers is crucial for ensuring the federal investment in postsecondary education increases educational attainment and improves our country's economic future. And the stakes are higher than ever: if FSA were a bank, it would be roughly the size of Citigroup in terms of assets it owns or guarantees.[1]

In the past 10 years, FSA has had some big victories: the near-seamless shift to Direct Lending, the launch of a smarter, leaner aid application process, and substantial improvements to the loan repayment process. It also has some areas where improvement would help: overseeing colleges that are defrauding or taking advantage of students, holding servicers and debt collectors accountable for providing quality service to students, and providing sufficient public data about its portfolio.

Under discussion today is whether FSA's congressionally mandated structure, which provides flexibility in key areas around hiring, contracting, and budgeting, is still the right way to manage the federal aid programs today. Currently, FSA's structure works very well with getting dollars out the door to students. It encourages steady improvement in the aid application and repayment processes. In the past several years it allowed FSA to rapidly adapt to two major changes in the student loan market—the need to purchase federal loans issued by private banks and convert to a system where FSA originated all federal loans. Both of these developments occurred in a matter of months and likely could not have gone as smoothly under a traditional government structure.

Conversely, FSA still has room to improve in some areas, such as oversight of institutions, contractors, and lenders, and releasing data necessary for policymakers, students, and the public. Congress should consider whether changes to FSA may be necessary to help the agency get better in these areas. This could include making oversight and data transparency stated goals of the legislation guiding FSA's structure.

Under the current legal framework FSA, cannot address structural problems that contribute to the rising cost of college and student debt. It cannot reverse long-standing trends that are shifting the cost of higher education from taxpayers on to students through state disinvestment. It cannot make colleges become more innovative in their educational operations to improve outcomes or bring down the cost of educating students. Nor can it encourage colleges spend scarce resources on what is really needed for high-quality teaching and learning, not unnecessary amenities and administration. Those are all policy issues that FSA cannot address without Congress changing the law.

The rest of my testimony focuses on four things: (1) why FSA became a PBO, (2) what FSA has done well in the last several years, (3) the need for better data from FSA, and (4) what Congress can do to improve the administration of the aid programs.

Federal Student Aid's current structure

Federal Student Aid became a "performance-based organization" (PBO) as part of the 1998 reauthorization of the Higher Education Act. As reported by the Congressional Research Service, there was significant concern at the time about the quality of FSA's customer service, its efficiency, and its accountability.[2] The United States Government Accounting Office (GAO) had also identified the federal student aid programs as high-risk since 1990.[3]

Concerned that FSA's structure prevented it from operating as efficiently and effectively as possible, Congress elected to convert the agency into a PBO. This turned FSA into a separate agency within the Department of Education, which, while still part of the government, was expected to act more like a private business.[4] The idea was that FSA would gain more autonomy in terms of hiring, contracting, personnel, and budgeting but then be subject to greater accountability for outcomes.[5] In particular, the legislation creating the performance-based organization set out seven purposes:

1. Improve service to students and other participants
2. Reduce administration costs
3. Increase accountability for FSA staff and leaders
4. Become more flexible in administering the programs
5. Combine information services into a more streamlined process
6. Create a common delivery system for federal student; and
7. Establish a system that has accurate and timely data to ensure program integrity[6]

The language establishing the PBO sent a clear message to FSA—do a better job delivering federal aid, and do so at a lower cost. To that end, it focused almost exclusively on issues related to aid disbursement and systems. Less attention was paid to the agency's roles in carrying out oversight and enforcement activities.

Federal Student Aid excels at getting dollars to students

Guided by the PBO goals that emphasize cost efficiency and streamlined delivery, FSA is very effective at getting aid dollars to students. This is not an easy task. Last year the federal student aid programs disbursed $128 billion to 12 million students at over 6,100 institutions and campuses.[7] This includes everything from Ivy League universities to small cosmetology schools. Students receive funds when they need them in a process that is continuously improving. Funds are dependable and delivered quickly with no interruptions in service.

The PBO encourages low-cost disbursement and management

This high-functioning nature of aid disbursement can likely be attributed to FSA's status as a performance-based organization. As noted earlier, the PBO legislation emphasized FSA's need to be more efficient and effective in disbursing aid. And so it has clear and easily measurable goals that directly relate to getting aid to students and operating the programs at a low cost. This includes measures like the cost per processing an aid application, the cost per borrower of student loan servicing, and the FAFSA filing rate of high school seniors.[8]

FSA oversaw two significant loan changes quickly and efficiently

In addition to its success in getting aid dollars to students, FSA rapidly and effectively handled two major recent changes in the federal student aid programs: the threatened collapse of the bank-based loan system during the recession and the transitioning to having the government disburse and service all federal loans in 2010. In doing so, it showed the benefit of the PBO in flexibly adapting to new circumstances while preserving access to aid for students.

The first of these major changes occurred in 2008. At the time, private loan companies could issue federal student loans. To encourage them to do so, the government provided subsidies to lenders and guaranteed 97 percent of the loan's balance against default. In exchange, lenders raised capital to originate loans and then serviced them.

Finding capital to issue loans was the most significant private market function in the system. But lenders proved incapable of doing this during the credit crunch. Several lenders exited the federal loan business and other major companies started threatening that they would be unable to issue new student loans.[9] So Congress passed a law called the Ensuring Continued Access to Student Loans Act, or ECASLA. This bailout program authorized the federal government to lend money to loan companies and also purchase bank-issued federal loans. The effect of this bill was that FSA lent to loan companies at one rate, gave them subsidies at another, and allowed the lenders to collect the difference between the two—about 129 basis points.[10] FSA stood up the required ECASLA programs quickly, stabilizing the loan market and ensuring students got the loans they needed.

The second major event occurred in 2010 when Congress ended the bank-based loan program and shifted to a system where all loans are made directly by the U.S. Department of Education using the government's lower cost of capital. Known as the Direct Loan Program, this change put FSA in charge of originating, disbursing, servicing, and collecting all new federal loans.

Switching to a system where FSA directly handled all federal student loans was a monumental undertaking. It made the entire switch in just three months—from the end of March to the end of June.[11] This included helping thousands of institutions to switch systems. A few numbers illustrate the sheer scale of this change. In 2008, the Department originated $13.3 billion in Direct Loans, about 19

percent of all federal loan volume.[12] In 2010-11 it disbursed $105.3 billion—150 percent more than all federal loans issued in 2007-08.[13] Yet all students still received their loans in a timely fashion.

This move to 100 percent Direct Lending not only showed FSA's operational capability, it also helped students and taxpayers. Ending subsidies for private lenders saved tens of billions of dollars for taxpayers, which allowed for spending over $36 billion more on Pell Grants, as well as over $19 billion to reduce the federal deficit.[14]

Eliminating the role of private banks also reduced the risk of fraud in the federal loan system. This is because there never was a truly private market for federal loans, just a lucrative set of subsidies. Congress set the loan terms and conditions. Students received the same interest rate, loan limits, and borrower benefits regardless of lender. Private companies issuing the loan had a 97 percent guarantee against default and also received quarterly payments from the government.

With no competition on loan terms or real skin in the game, lenders instead resorted to questionable tactics to compete over loan volume. In 2007, Andrew Cuomo, then the New York Attorney General, reached settlements with over a dozen loan companies, including the eight largest private lenders, for improper relationships with institutions of higher education.[15] Cuomo's investigation found that loan companies were doing things like offering kickbacks to financial aid administrators in exchange for recommending their loans to students.[16] One Department of Education official even held over $100,000 in stock of a student loan company he oversaw.[17] Lenders also took advantage of securitization practices to generate potentially hundreds of millions in inflated subsidy payments from the federal government—an issue for which several student loan companies are still facing legal action.[18]

Terminating the bank-based loan system removed the risk of lenders engaging in questionable behavior going forward. It saved taxpayers money. And FSA's ability to ramp up the Direct Loan program showed that it could handle this expansion of responsibility quickly and efficiently.

FSA has significantly improved the aid application process

During the last several years FSA took several steps to make the Free Application for Federal Student Aid, or FAFSA, much easier for students and families to fill out. This is important for ensuring that paperwork does not become a burden to getting money needed for college. To accomplish this, FSA implemented skip logic for the online form, reduced the number of questions by 30 percent, and created a tool that allows users to import data directly from the Internal Revenue Service.[19] The result is it now takes about 21 minutes to complete the form, down from closer to an hour.[20] It also launched a pilot project to help states and school districts identify students who started but did not finish a FAFSA so they can apply for the aid they need.[21] These are all instances of good government innovation to make products and services better and more efficient.

FSA has significantly improved the student loan repayment process

FSA made several changes over the last several years to improve the process of student loan repayment. It implemented repayment plans that allow all borrowers to tie their loan payments to an affordable share of their income. It also conducted substantial borrower outreach to increase awareness of income-driven repayment options and redid the loan counseling tool students complete when they leave school. And it has made it easier for borrowers to apply for income-driven repayment plans by establishing a link to IRS data that makes it possible to easily transfer income data to application forms. These changes should help millions of borrowers stay current on their loans.

Federal Student Aid must improve data transparency

While FSA publishes some analyses of the condition of the student loan portfolio, the public and policymakers would benefit from more data. Increased transparency would help Members of Congress and others who rely on evidence to develop solutions. FSA should do more to unlock the data it has, make it transparent, and use it for improving internal practices.

The data FSA possesses and releases

FSA's most important database is known as the National Student Loan Data System, or NSLDS. It represents the most complete set of information available about the federal student aid programs. This system contains information on all individuals receiving federal financial aid from FSA. This includes data on the schools a student attended where they received aid, the amounts and type of aid received and when, and some of the information students provided when filling out the application for federal aid. The main purpose of NSLDS is operational. FSA uses it to track aid awarded, note when borrowers enter repayment or default, and other functions related to managing the federal student aid programs under the rules set by Congress.

In 2009 FSA created a Federal Student Aid Data Center that uses NSLDS to generate spreadsheets of information about its portfolio to the general public.[22] These workbooks include information about the amount of grants and loans disbursed by institution by year. More recently the site started publishing breakdowns of the Direct Loan portfolio in terms of loan status, repayment plan, and the types of deferments and forbearances used by students to pause their payments for at least a year at a time.

Available data are insufficient for Congressional policymaking

The federal student aid programs offer a suite of benefits to help struggling borrowers avoid delinquency and default. For example, borrowers can uses forbearances to pause their payments for a year at a time without becoming delinquent. Borrowers can also tie their monthly payments to their income as a way of ensuring affordability.

FSA's public data do not allow for analyzing the effectiveness of these repayment options. While the agency does disclose information on the sheer stock of loans in forbearance and income-based repayment, it does not provide information about how loans may flow in and out of these statuses. In other words, FSA reports how many borrowers are on forbearance, but not how long they stay in this status, whether borrowers who leave forbearance end up repaying or defaulting. These are important questions for assessing effectiveness. If it turns out that forbearance is nothing more than a pause on the way to default then new borrower assistance tools may be necessary. Or if borrowers spend several years in forbearance then it may be necessary to explore ways to get them on income-based repayment instead.

The same issue is true for institutional, servicer, and contractor oversight. Every year the Department of Education discloses student loan default rates. And this year the Department of Education released some data on loan repayment rates and earnings of federally aided students as part of a revised College Scorecard. For institutions, however, FSA does not release information related to longer-term default rates overall and by type of loan, usage of repayment plans such as income-based repayment, or delinquency rates.

The data FSA discloses by servicer are useful but would also benefit from some additional information. FSA releases data on repayment plan and loan status by Direct Loan servicer, but does not break results down by cohort. This means data combine the experiences of borrowers across many years in repayment, not how the set of borrowers who entered repayment in a given year fare. Similarly, data on loan results by private loan company are also limited.

The public would benefit from more data on debt collectors. FSA does not disclose information related to how different debt collectors fare in terms of helping borrowers rehabilitate defaulted loans or consolidate them to get on income-based repayment. Knowing more about these issues is important for determining whether the current structure of debt collection succeeds in giving borrowers the tools they need to fix their situations while also getting the government's money back when warranted.

Data could be better leveraged for changing contractor incentives

It is increasingly clear that the borrowers most likely to default are those who drop out with relatively low balances. For instance, a recent report from the Association of Community College Trustees drawing on data from borrowers at Iowa Community Colleges found that nearly half of defaulters owed less than $5,000.[23] Similarly, of students who started in 2003-04, borrowed, and had defaulted by 2009, over 60 percent had dropped out and about 20 percent had completed nothing more than a certificate.[24]

FSA could make better use of its data to identify risk signs among borrowers, such as dropping out, and use them to drive changes the practices of its contracted servicers and debt collectors. For instance, FSA could place new requirements for servicers to contact higher-risk borrowers sooner and more frequently. It could also change contracting terms to compensate servicers differently for serving riskier borrowers. And FSA could establish new performance metrics that introduce greater accountability for helping these individuals.

FSA needs a public data analysis tool

The first step in improving data transparency is to create a tool that would allow the public to run its own analytics off the data held in NLSDS. This does not mean giving access to anything close to personally identifiable data. It would look like PowerStats, a tool the Department of Education's National Center for Education Statistics (NCES) created to let the public run queries off the sample surveys it administers. With it, anyone can generate statistics about the rate at which students borrow, average amounts, and other important data.

Building a similar tool for NSDLS could satisfy many research and analysis questions. With it users could answer some of the key questions raised above—what is the longer-term default rate on loans? Do borrows who use forbearance ultimately repay? What are the risk characteristics in terms of institutions and students most associated with poor loan outcomes? This system would not need to produce results at the institutional level, but would have to generate answers by institution type and major student characteristics. And it could include the same privacy protections—including jail time and fines for those who violate rules—that NCES already established for PowerStats.

Possible Congressional actions

Congress should take steps to improve the administration of aid programs.

Add data and transparency to the PBO goals

With a reauthorization of the Higher Education Act on the horizon now is the time to rethink the structure of aid benefits, accountability, and other major issues. To do so requires better data about what currently happens to students. Adding data release and transparency, including a public data analysis tool, to the PBO's goals would make this a core expectation of FSA's responsibilities.

That said, even greater transparency around existing data will not correct the major gap in FSA's current data system—students who do not receive federal aid. While this information is not important for analyzing loan performance, it is crucial for judging completion and attainment rates of students. Without data on the full population of students it is impossible to contextualize the results of federally aided students.

FSA is currently not allowed to generate this fuller picture of student performance. A 2008 change by Congress banned the establishment of a student unit record system that would include data on individuals in college who do not receive federal aid. If Congress is concerned about the completion success of federally aided students it should overturn this unit record ban.

Require reporting on FFEL loans

The public is currently flying blind when it comes to the operation of the FFEL program. These are a significant amount of loans—$371 billion.[25] And the public knows little about their delinquency status, payment plan, or other key indicators because the FFEL loan holders are not required to report it. Congress should require new reporting for FFEL lenders to ensure that the Department can better analyze how that older part of the portfolio performs.

Simplify the aid programs

An additional operational challenge for FSA is that Congress has created far too many aid options, especially in terms of loan repayment. Students who enter repayment can pay anywhere between 10 years and 30 years, in equal payments, in payments that grow over time, or based upon their income. Reducing the number of payment options down to a standard plan and an income-driven plan would help FSA better communicate options to borrowers and assist with choice.

Similarly, Congress can do more to help borrowers access their financial aid and maintain their repayment benefits. On the front end, it could authorize a pilot program to inform students as early as eighth grade of their aid eligibility. Doing so could send a strong signal to younger students that college will be affordable and within reach to motivate them in school.

Congress can also take two steps to improve loan repayment. First, it could allow students applying for the income-driven repayment plans to authorize the sharing of their income information for multiple years. Doing so would make it easier for borrowers to re-enroll in these plans each year and also reduce costs for servicers. Second, it should authorize a pilot program to test out allowing borrowers to pay their loans through the payroll withholding system. If successful, paying loans in this manner could make it much easier for students to stay on track and avoid default.

Conclusion

Seventeen years ago Congress turned FSA into a PBO largely due to concerns about high costs of program administration and poor service to institutions and students. The structure appears to have been very successful at fixing issues related to getting funds to students and keeping administrative costs reasonable. Now, the challenge is to encourage better oversight of institutions, servicers, lenders, and other contractors, and to provide the public and policymakers with increased data and transparency. Accomplishing these goals will make FSA and the aid programs it administers stronger and better for students and taxpayers.

Notes

[1] There are currently $1.17 trillion in outstanding federal student loans overseen by Federal Student Aid. Citibank has about $1.33 trillion in consolidated assets. Author analysis of combined student loan volume for thre third quarter of the 2015 federal fiscal year from "Direct and Federal Family Education Loan Portfolio by Loan Status," Federal Student Aid, U.S. Department of Education, available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfoliobyLoanStatus.xls, and "Insured U.S.-Chartered Commerical Banks that have Consolidated Asssets of $300 Million or More http://www.federalreserve.gov/releases/lbr/current/

[2] Charmaine Jackson, "The Office of Federal Student Aid: the Federal Government's First Performance-Based Organization," Congressional Research Service, October 2, 2003, available at http://www.oswego.edu/~ruddy/Educational%20Policy/CRS%20Reports/Student%20Loans-Office%20Reorganization.pdf, Page 2.

[3] "High Risk Series: An Update," United States Government Accountability Office, GAO-05-207, January 2005, available at http://www.gao.gov/new.items/d05207.pdf, Page 13.

[4] "The Office of Federal Student Aid: the Federal Government's First Performance-Based Organization," Page 6.

[5] Ibid.

[6] "Performance-Based Organization for Delivery of Federal Student Assistance," 20 U.S. Code 1018, Legal Information Institute, Cornell University, available at https://www.law.cornell.edu/uscode/text/20/1018.

[7] "Annual Report FY 2015," Federal Student Aid, U.S. Department of Education, November 13, 2015, available at https://studentaid.ed.gov/sa/sites/default/files/FY_2015_FSA_Annual_Report_official.pdf, Page 3.

[8] "Annual Report FY 2015," Pages 18, 20, 22, 24.

[9] Tami Luhby, "Loan Crisis Goes to College," *CNN Money,* February 15, 2008, available at http://money.cnn.com/2008/02/14/news/companies/privatestudentloans/.

[10] "Federal Family Education Loan Program Special Allowance Rates for the Quarter Ending September 30, 2015, Federal Student Aid, U.S. Department of Education, October 2, 2015, available at https://www.ifap.ed.gov/ffelspecrates/attachments/SAPmemo100515.pdf, page 15.

[11] The Health Care and Education Reconciliation Act of 2010 became law on March 30, 2010. It prohibited the disbursement of any new FFEL loans after June 30, 2010.

[12] Author analysis of federal loan data provided by the Office of Federal Student Aid for the 2007-2008 award year from "Title IV Program Volume Reports," Federal Student Aid, U.S. Department of Education, https://studentaid.ed.gov/sa/about/data-center/student/title-iv

[13] Author analysis of federal loan data provided by the Office of Federal Student Aid for the 2010-11 award year from "Title IV Program Volume Reports," Federal Student Aid, U.S. Department of Education, https://studentaid.ed.gov/sa/about/data-center/student/title-iv.

[14] Douglas Elmendorf, "Cost Estimate H.R. 4872, the Reconciliation Act of 2010," Congressional Budget Office, March 20, 2010, available at https://www.cbo.gov/sites/default/files/111th-congress-2009-2010/costestimate/amendreconprop.pdf, Pages 7 and 2.

[15] "Cuomo Announces Settlement with Student Loan Company," New York State Office of the Attorney General, December 11, 2007, available at http://www.ag.ny.gov/press-release/cuomo-announces-settlement-student-loan-company.

[16] "Financial Aid Officers Benefit From Student Loans, Probe Finds," *PBS NewsHour,* April 10, 2007, available at http://www.pbs.org/newshour/bb/education-jan-june07-loans_04-10/.

[17] Jonathan Glater and Karen Arenson, "Federal Official in Student Loans Held Stock," *New York Times,* April 6, 2007, available at http://www.nytimes.com/2007/04/06/education/06loans.html?ref=cti-group-inc.

[18] Brian Faler, "Student Loan Loophole Costs Millions," *Washington Post, June 14, 2005,* available at http://www.washingtonpost.com/wp-dyn/content/article/2005/06/13/AR2005061301458.html, and Danielle Douglas-Gabriel, "The Student Loan Scandal That Just Won't Die," *Washington Post,* October 21, 2015, available at https://www.washingtonpost.com/news/grade-point/wp/2015/10/21/the-student-loan-scandal-that-just-wont-die/.

[19] "Federal Student Aid: Strategic Plan FY 2012-16," Federal Student Aid, U.S. Department of Education, December 2011, available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/static/gw/docs/FiveYearPlan_2012.pdf, Page 17.

[20] "Federal Student Aid: Annual Report FY 2014," Federal Student Aid, U.S. Department of Education, November 14, 2014, available at https://studentaid.ed.gov/sa/sites/default/files/FY_2014_FSA_Annual_Report_official.pdf, Page 51.

[21] "Federal Student Aid Strategic Plan FY 2012-16," Page 17.

[22] "Federal Student Aid (FSA) Data Center," U.S. Department of Education, available at http://www.ed.gov/open/plan/fsa-data-center.

[23] Colleen Campbell and Nicholas Hillman, "A Closer Look at the Trillion," American Associaiton of Community College Trustees, September 28, 2015, available at http://www.acct.org/files/Publications/2015/ACCT_Borrowing-Repayment-Iowa_CCs_09-28-2015.pdf, Page 3.

[24] Clare McCann, "Student Loan Defaulters Aren't Who You Think They Are," *Ed Central,* New America, October 23, 2014, available at http://www.edcentral.org/defaulters/.

[25] Author analysis of third quarter data from the 2015 federal fiscal year found in "Federal Family Education Loan Portfolio by Loan Status," Federal Student Aid, U.S. Department of Education, available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfoliobyLoanStatus.xls.

Mr. MEADOWS. Thank you, Mr. Miller.

Mr. Draeger, you are recognized for 5 minutes.

STATEMENT OF JUSTIN DRAEGER

Mr. DRAEGER. Chairman Meadows and Chairwoman Foxx, Ranking Members Maloney and Hinojosa, thank you for inviting me to testify today.

Collectively, NASFAA's 3,000 member schools serve 90 percent of all undergraduates in this country. And the issues I will describe today are not isolated incidents. One out of every three schools has reported to NASFAA significant operational shortfalls with FSA that, unfortunately, have only worsened in recent years.

As institutions, we view ourselves as partners with FSA, and we celebrate their successes, particularly in regards to simplifying the financial aid form and improving their counseling tools. But these successes notwithstanding, FSA is consistently falling short in other areas, particularly in their partnerships with institutions, and that has detrimental effects on students.

In our written remarks, we have included several examples of this lack of partnership, including one where FSA took unilateral action last year without consulting schools that resulted in some students being mistakenly placed into student loan repayment while they were actually still in school.

Now, schools are reluctant to complain about this disservice because FSA ultimately holds all the cards in terms of a school being able to offer financial aid funds to students. The underlying perception to our members is that you keep your complaints to a minimum or you risk a Federal program review. And this feeds into a second major issue with FSA, its lack of accountability to partners or the public.

The most pervasive problems at FSA—and this has been reported by over a thousand schools in each of your districts, serving 6.5 million students—are long delays in program participation agreement changes, long delays in closing out program reviews, delayed guidance in relation to deadlines that institutions have to meet, and even publishing simple benchmarks about how long it should take to get responses on compliance issues.

These issues have been going on for years. In fact, in 2012, we provided input to FSA about how they could improve their service to partners. Yet, still today, FSA's strategic plans continue to lack appropriate performance metrics that could be used to measure progress on these issues.

Of the many examples that we have provided in our written testimony, the most recent example that can be found that highlights these issues is in FSA's implementation of gainful employment reporting. And for those of you who might be unfamiliar, the Department recently defined what it means to be gainfully employed, which is a statutory criteria schools have to meet in order to offer financial aid for certificate programs.

The entire rollout process can be described as nothing less than a time-consuming debacle that took already-limited time away from counseling students.

In response to schools' complaints about this process, FSA officials are quick to point out that schools had 9 months to meet this

massive data reporting requirement, which, quite frankly, is intellectually dishonest. We have provided a timeline in my written testimony, also available here in the room, that shows that FSA didn't even begin issuing operational guidance until 3 months after the final regulations were published.

Then, in the space of 5 months, leading right up to the deadline, FSA issued roughly 300 pages of additional implementation guidance, the bulk of which included a technical reference guide—all of it being issued and updated right up to the reporting deadline. Then, as that reporting deadline came and went, FSA continued to issue guidance on compliance.

And here's where it gets truly disturbing. At the same time that ED was continuing to issue guidance to schools, they began sending a series of threatening letters to all types of schools—4-year public, private, community colleges, and proprietaries—threatening them with administrative incapability findings, a term that basically means that students at those schools could lose financial aid.

Now, FSA claims that schools showed a shocking lack of compliance, without even considering the idea that it was perhaps their own rollout and timing that contributed to the bulk of these problems. As it turns out, most of these schools were not out of compliance. They simply had data reporting errors that produced conflicting results at FSA.

Eventually, 10 weeks after these deadlines and after two threatening letters, FSA finally released a tool that schools could actually use to determine whether all the data conflicts had been resolved.

And, of course, how does this ultimately affect students? Well, one financial aid administrator in Ohio summarized it best when she said, "GE reporting has been an incredibly frustrating experience—an experience in wasted time that could have been more productively spent helping our students and families."

Despite these examples that we have cited here and as best as we can tell, FSA continues, through self-assessment, to give itself high marks, pay healthy bonuses, and avert responsibility for these persistent issues. Now, we really do see FSA as a partner, but partnership is not a one-way street. We have provided several recommendations on ways that we hope we can address these issues.

And despite FSA's many successes and despite my belief that their staff are as dedicated to students as any financial aid administrator in this country, I also believe we will continue to have these problems until there are meaningful cultural and structural changes at this agency.

Thank you.

[prepared statement of Mr. Draeger follows:]

Testimony: Justin Draeger, NASFAA

Chairman Meadows, Chairwoman Foxx, Ranking Member Connolly, Ranking Member Hinojosa, and members of the subcommittees:

Good morning. Thank you for inviting me to testify today. The National Association of Student Financial Aid Administrators (NASFAA) represents financial aid administrators at more than 3,000 public and private colleges, universities, and trade schools across our nation. Collectively, NASFAA members serve 90 percent of undergraduate students studying in the United States.

By nature of their occupational duties, financial aid administrators are required to work very closely with the Department of Education (ED), particularly with the Office of Federal Student Aid (FSA). In their role as stewards of federal financial aid funds, compliance officers, and—most importantly—counselors, NASFAA members are the effective link between FSA and today's postsecondary students, and it would be accurate to say that most financial aid offices interact with FSA every single working day. NASFAA and its institutional members are well positioned to offer feedback on the effectiveness and appropriateness of FSA as a performance-based organization (PBO).

The purpose of a PBO within the Department of Education as it relates to institutions of higher education and students is specifically outlined in the law. FSA, the PBO for delivery of federal student financial assistance, as defined under 20 U.S.C. 1018, has the express purposes of:

(a) Improving service to students;
(b) Reducing costs;
(c) Increasing the accountability of officials responsible for administering the operational aspects of the federal student aid programs;
(d) Providing greater flexibility in the management and administration of the federal student aid programs;
(e) Integrating information systems;
(f) Implementing open, common, integrated systems for aid delivery; and

(g) Developing a data system to ensure program integrity.

Over the years FSA has had some important successes. They helped students and families by simplifying the Free Application for Federal Student Aid (FAFSA) by implementing smarter skip logic, reducing the time applicants take in completing the FAFSA every year. Similarly, they worked with the Internal Revenue Service (IRS) to implement the Data Retrieval Tool (DRT) for students to use in the application process.

Schools also receive capable assistance regarding compliance issues on a regular basis from the training officers and school participation team members at their FSA regional offices. Further, FSA publishes a Handbook on an annual basis to assist schools with implementing regulations. Even though schools would like to see this document published earlier in the application cycle, the content of the Handbook has improved greatly over recent years. It is also worth mentioning that FSA's focus on improving consumer information led them to the development of a strong, relevant tool for students and families, the Financial Awareness Counseling Tool (FACT).

In addition, FSA has made some important progress in targeting fraud and abuse surrounding the completion of the FAFSA. Most notably, it recently acquired the domain name FAFSA.com, which was previously operated by a private company that charged students for assistance in completing the free federal application form, and now owns the mark "FAFSA" from the U.S. Patent and Trademark Office.[1]

And finally, FSA deserves to be commended for their work on the transition to one-hundred percent direct lending--a major endeavor, that by-and-large was achieved without any significant disruptions in systems or delays in disbursement, although loan servicing issues remain.

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[1] Federal Student Aid, " Details on the Transfer of FAFSA.com to the Department of Education," https://studentaid.ed.gov/sa/about/announcements/fafsa-com-transfer?sf40145884=1

To be sure, none of this could have been achieved without the hard-working FSA staff, including trainers, software experts, and customer support employees.

Unfortunately, despite these successes, one need not look too deeply to see that FSA is not acting in accordance with its required purposes in its role as a PBO, and in some cases, acts in ways that directly conflict with its stated purposes.

This is particularly true related to the PBO's charges (c), increasing accountability of officials responsible for administering the operational aspects of the program, and (d), providing greater flexibility in the management and administration of the financial aid programs. On these charges, the general experience with FSA from institutions has actually been the opposite: a lack of accountability on the part of FSA and a stifling, archaic approach to institutional management and administration of the aid programs. For many schools, the working relationship with FSA has become so tenuous that it is having adverse effects on students.

Perhaps most frustrating is that institutions have little recourse, given the structure that exists between institutions and the federal government. Schools are reluctant to raise valid concerns about FSA's operations for fear that it would negatively impact an institution's relationship with the agency. Schools often shy away from asking FSA questions or vocalizing complaints about poor customer service or unworkable FSA initiatives for fear of a possible compliance review and potential loss of student aid funding. Instead, many schools struggle trying to interpret rules and regulations without assistance from FSA, which may result in students not receiving the aid to which they are entitled. Discussions, debates, decisions, and—perhaps most troubling—accountability are often one-sided. One could argue that the relationship is set up for failure, as it is nearly impossible for institutions to "partner" with an organization that at the same time determines whether they will survive or close down.

My testimony today will outline three significant concerns and challenges with FSA as a PBO, including:

- The nature of the relationship between FSA and with schools
- The tendency of FSA to step outside its purview
- The lack of accountability to other stakeholders, including institutions, students, or the public

I will end by offering some proposed solutions to modify and strengthen FSA and its role with institutions.

The Relationship Between FSA and Institutions

FSA and institutions should be partners in the successful administration and delivery of federal student aid, but instead, FSA regularly acts as a watchdog. FSA rarely consults schools before making major changes or setting deadlines, often resulting in confusion, misunderstandings, unintended and unanticipated consequences, and compliance challenges by institutions.

A prime example is FSA's recent communication, guidance, and deadlines related to the gainful employment (GE) regulation. It has been nothing short of a debacle. Final regulations published on October 31, 2014, notified schools that they would have to report seven award years of data for gainful employment programs.

As you can see in the timeline we provided (Appendix A), necessary guidance to report the data was published anywhere from 120 days in advance to 2 weeks after the initial July 31 deadline. I'd like to highlight a few key pieces of guidance.

The day *before* reporting was due, FSA provided instructions to schools on how to confirm their data was submitted without any issues. Ten days *after* the July 31 deadline, the Department provided additional guidance on how to report certain programs, acknowledging that their own guidance thus far was lacking and may have led schools to believe they did not need to report data on certain programs.

Even still, FSA refused to provide any deadline extensions, even after we sent a formal request[2] on behalf of the financial aid community.

Nearly a month after the July 31 deadline, FSA finally provided program tracking functionality allowing schools to look up whether the school reported data for GE programs as identified by ED. Many schools did not realize there were minor data conflicts in their initial reports.

Only nine calendar days after the program tracking tool was released, school presidents received their first warning letter regarding the institution's non-compliance with GE regulations. These warning letters threatened the school with violations of administrative capability, a serious allegation that can result in the loss of eligibility to participate in the Title IV aid programs. These threatening letters were sent to schools from every corner of higher education, from large research institutions to flagship public and private universities, to community colleges. In many cases, these schools were actually in compliance, but simply had data conflicts that could have been resolved through a collaborative effort between schools and ED. Instead, over the next three weeks, FSA provided even more reporting-related guidance and yet *another* warning letter to schools.

To make matters worse, we heard from schools throughout the reporting process that ED began making system corrections during workdays at the same time schools were trying to correct data, all without announcement or forewarning.

It was only after all GE reporting deadlines passed that FSA provided instructions to schools on how to confirm their compliance with the GE reporting requirements. Clearly, this information would have served schools better if it was released *before* the first deadline to make sure the institutions were in compliance with the rules. But just as schools receive this invaluable tool, FSA sends out another non-compliance notice *the next day.*

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[2] NASFAA, Letter to Under Secretary Mitchell, Deputy Assistant Secretary Mahaffie, and Chief Operating Officer Runcie, (July 24, 2015), http://www.nasfaa.org/uploads/documents/nasfaa_ge_reporting_deadlines_1_.pdf

As of the final October 1 deadline, several hundred schools were still in a questionable status regarding the satisfactory completion of their GE reporting for the previous years. To date, ED has not provided any of these schools a notification that their data conflicts have been corrected, leaving many schools wondering when another shoe will drop--this time with sanctions.

Had ED used a more reasonable timetable to implement its new regulations, the system of reporting could have been adequately tested in a real partnership with institutions to identify problems and create solutions before going live, thereby potentially avoiding the threatening and embarrassing letters FSA sent to schools.

One of our members, a financial aid director in Ohio, summed up these last few months of GE reporting very accurately by saying, "GE reporting...has been an incredibly frustrating experience of wasted time - time which could have been more productively spent on our students and families."

In another example, FSA quietly and without warning to institutions ended a portion of its enrollment reporting contract with the National Student Clearinghouse in the fall of 2014 that resulted in reporting delays, sometimes putting students incorrectly into loan repayment when they were in fact still in school. The change affected the daily operations of financial aid offices, yet FSA made no public announcement of the change until the repercussions became apparent several months later. The termination of the contract led to institutions, on very short notice, having to do more labor-intensive, manual work to meet students' needs; a backwards move in an age where efficiency through technology is the norm.

Ultimately, this change directly contradicted multiple purposes of a PBO: it decreased services to students due to the additional workload, it removed flexibility, and it eliminated one of the integrated systems to administer federal aid. To make matters worse, FSA assured institutions in an Electronic

Announcement[3] that they would do their part to keep information up to date in their system, the National Student Loan Data System (NSLDS), but have yet to make significant improvements to the notoriously and unacceptably slow database that still does not provide data in real-time, even though this technology has existed in the private sector for many years.

NASFAA sent a letter[4] to FSA outlining institutions' concern on this issue, requesting that FSA 1) address the operational issues, and 2) reach out to institutions in the future when considering major decisions that would impact day-to-day functions in the financial aid office. That letter was sent June 3, 2015, and as of today, we have yet to receive a response.

According to FSA's most recent five-year strategic plan,[5] one of FSA's goals is "Develop efficient processes and effective capabilities that are among the best in the public and private sectors." Both of these examples demonstrate that FSA has a very long way to go before being "among the best" with respect to efficiency and effectiveness. Just ask the schools. Additionally, these point to the fact that there may be a more fundamental issue in question: Is it even appropriate for the functions of FSA to be so all-encompassing? After all, how is a single entity without real oversight supposed to partner with schools?

The Tendency of FSA to Step Outside Its Purview

Under the broad umbrella of ED, FSA is *not* responsible for the development of policy for the federal student aid programs. Policy development falls under the purview of the ED's Office of Postsecondary Education (OPE).[6] It is a sensible

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[3] Federal Student Aid, IFAP, "School Responsibilities Upon Receiving Paper In-School Deferment Forms," (March 12, 2015), http://www.ifap.ed.gov/eannouncements/031215SchoolResponsibilitiesUponReceivingPaperInSchoolDefermentForms.html

[4] NASFAA, Letter to Chief Operating Officer Runcie, (June 3, 2015), http://www.nasfaa.org/uploads/documents/20150603_NASFAA_Letter_Enrollment_Processing.pdf

[5] Federal Student Aid, "Federal Student Aid Strategic Plan FY2012-16," (December 2011), https://studentaid.ed.gov/sa/sites/default/files/fsawg/static/gw/docs/FiveYearPlan_2012.pdf

[6] Congressional Research Service, Memorandum: "Student Aid Administration: Trends in Funding, Program Statistics, and Outstanding Federal Student Loans," (October 2015).

delineation and rightly separates the development of policy from the operational matters (the latter being the purview of FSA). However, in recent years FSA has engaged in mission creep by routinely implementing operational procedures that, in effect, set policy.

The strongest, and some would argue the most disturbing, example of this occurred in 2012 when Congress placed a limitation[7] on how long students could receive subsidized loans. In order to meet the regulatory requirements of this provision, FSA began collecting Classification of Instructional Program (CIP) codes to categorize academic programs. Per the statutory requirement, this information was only needed for students who were borrowing a subsidized loan. However, FSA took it upon themselves to require that schools report CIP codes for *all* borrowers, including graduate students who are ineligible for subsidized loans. Requiring significant amounts of new data, at a significant expense and burden to schools, is tantamount to policy, not operations. Furthermore, the collection of this information, coupled with data ED already has on file for thousands of financial aid recipients, veers closely toward collecting student unit level data, something that is currently banned by law.

The Lack of Accountability

The "performance-based organization" model is based on a premise that government agencies can be results-driven and still deliver outstanding service to stakeholders. Indeed, under a successful model, increased latitude in certain processes and heightened accountability and oversight overall could result in a strong, productive government agency. However, FSA is severely lacking in their accountability. In the private sector, companies are accountable to both their customers and partners. In the federal government, agencies are normally accountable to the administration and Congress, which represents the public.

[7] Public Law 112-141, Moving Ahead for Progress in the 21st Century Act, enacted July 6, 2012

However, in the case of FSA, the Chief Operating Officer (COO) is not confirmed by the Senate and is certainly not accountable in any way to students or institutions. These lack of incentives have led to an agency that is often technologically out-of-date and subpar when it comes to customer service.

The overall inability to properly plan and report continues to hinder FSA from meeting its obligations to the public and Congress as a performance-based organization (PBO). We are unable to find evidence that FSA consistently meets statutory planning and reporting obligations,[8] such as:

- Produce and make available to the public a 5-year performance plan on an annual basis
- Consult with external stakeholders in the development of the performance plan and the annual report
- Fully provide evaluation ratings of the performance of the COO and senior managers
- Publish recommendations for legislative and regulatory changes

FSA last published on the "Strategic Planning and Reporting" component of its website[9] a five-year plan in December 2011.[10] Recently, we discovered that FSA has produced a strategic plan for fiscal years 2015-19 that, according to page ii of the report, was published in October 2015; however, this report is nowhere to be found on the FSA website. Furthermore, the practice of publishing a 5-year strategic plan at the end of the first year is ineffective. Why strategically plan for a year that has already passed?

Even though OPE participates in negotiated rulemaking to make recommendations for regulatory changes, FSA also has a statutory obligation to provide suggestions to amend laws and regulations to increase the effectiveness

[8] 20 USC 1018(c)(1) & USC 1018(c)(2)
[9] Federal Student Aid, "Strategic Planning and Reporting," https://studentaid.ed.gov/sa/about/strategic-planning-reporting
[10] Federal Student Aid, "Federal Student Aid Strategic Plan FY2012-16," (December 2011), https://studentaid.ed.gov/sa/sites/default/files/fsawg/static/gw/docs/FiveYearPlan_2012.pdf

and capability of the federal student aid portfolio.[11] While we pointed out that FSA has started to push its way into the policy arena through recent process-based changes, we support its function to suggest changes to laws and regulations through established channels.

We commend FSA for creating strategic goals and objectives that by and large illustrate an understanding of its own weaknesses and opportunities for improvement, but these are largely self-assessments with no apparent input by schools or other stakeholders.

A cursory glance through their strategic objectives shows that FSA lacks even basic performance metrics and targets that even remotely correspond with their objectives. In other words, their stated performance metrics do not actually evaluate performance. For example, the performance metrics for FSA Strategic Goal A ("provide superior service and information to students and borrowers") and B ("work to ensure that all participants in the system of funding postsecondary education serve the interests of students, from policy to delivery") found in the 2014 FSA Annual Report[12] provide little opportunity for policymakers, stakeholders, and taxpayers to properly gauge the success of FSA.

Strategic Goal B Objective 1 is to "improve FSA's support, communications, and processes for postsecondary and financial institutions," and Strategic Goal B Objective 3 is to "support system participants in implementing legislative, regulatory, executive, and other requirements." These two objectives are particularly important to institutions, but the only performance metric that corresponds to these objectives is the use of a 10 to 12 question "ease of doing business" survey[13] sent to institutions—hardly a robust measurement tool for quantifying and assessing those lofty goals and objectives.

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[11] 20 USC 1018(c)(2)(F)
[12] Federal Student Aid, "Annual Report FY2014," (November 2014), https://www2.ed.gov/about/reports/annual/2014report/fsa-report.pdf
[13] U.S. Department of Education Schools Partners Survey, http://www.reginfo.gov/public/do/DownloadDocument?objectID=39790001

These holes in the fulfillment of FSA's goals, metrics, planning and reporting responsibilities consistently appear in external reports and audits of FSA.[14] These obligations have been on the books for almost 20 years, so it leaves us scratching our heads as to why FSA continues to fail to properly report.

FSA, students, and partners would be better served if they focused on even the simplest of performance metrics. For example, despite our many calls for target timeframes for program review close-outs, program renewals, and new program approvals, FSA's response times in meeting basic operational duties continue to lag for months at a time, with no end in sight. To be sure, FSA is extremely vigilant about ensuring schools meet deadlines (recall the GE debacle), however it is not uncommon for an institution to have to wait months, and in some cases years, to hear back from FSA on important items like program reviews, renewals, and program participation agreement (PPA) modifications. These delays detrimentally affect not only the school but also the students it serves, especially with respect to changes or additions to programs eligible for Title IV aid.

In one instance, an institution completed the paperwork needed to add an additional program to its PPA in October, and did not hear anything from FSA until May. As a result of this delay, their process of adding the program came to halt, ultimately impacting students. For another (more glaring) example, an institution that participated in a program review in 1996, was dinged with an audit finding from that review over 17 years later in 2013.[15] Unfortunately, these are not the only such instances we have learned of. Not only is such a lengthy response time completely unacceptable from a customer service standpoint, it is also damaging and unhelpful to institutions and, ultimately, students. This, of course, is not to mention the deep and embarrassing irony surrounding the value of deadlines in

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[14] U.S. Department of Education Office of Inspector General, "Federal Student Aid's Performance as a Performance-Based Organization," (December 2008); Government Accountability Office, "Office of Federal Student Aid: Better Strategic and Human Capital Planning Would Help Sustain Management Progress," (October 2004); Government Accountability Office, "Federal Student Aid: Additional Management Improvements Would Clarify Strategic Direction and Enhance Accountability," (April 2002).
[15] Task Force on Federal Regulation of Higher Education, "Recalibrating Regulation of Colleges and Universities," (February 2015), http://www.help.senate.gov/imo/media/Regulations_Task_Force_Report_2015_FINAL.pdf

this "partnership." While schools must strictly adhere to deadlines for everything from gainful employment reporting to PPA submission, FSA has no such deadlines, even self-prescribed deadlines.

The lack of accountability—a key part of a PBO—tremendously erodes the goodwill between institutions and FSA. When it comes to reporting requirements, deadlines, and trust, the one-sided nature of the relationship puts a strain on institutions and their faith in FSA as a "partner" and ultimately makes institutional planning impossible, negatively affecting students.

As you can see, we have serious concerns with FSA's performance as a PBO due to the nature of its relationship with schools, the tendency of FSA to step outside its purview, and the lack of accountability to institutions and--most importantly--to the public.

There is also the overarching issue regarding the operational efficiency of FSA. While there are high expectations of institutions in terms of their ability to be operationally effective and efficient, FSA appears to have no such standards for themselves, as noted multiple times in our testimony today and—in no short supply—by the Department of Education Office of Inspector General and by the Government Accountability Office.[16] The below two examples illustrate the current operational inefficiency of FSA.

First, when ED, without warning, ended a portion of the enrollment reporting contract, they assured schools that "As long as a school is fully compliant with enrollment reporting requirements, borrower enrollment information should

[16] U.S. Department of Education Office of Inspector General, "Federal Student Aid's Oversight of Schools Participating in the Title IV Programs," (September 2015); Government Accountability Office, "Federal Student Loans: Education Could Do More to Help Ensure Borrowers Are Aware of Repayment and Forgiveness Options," (August 2015); U.S. Department of Education Office of Inspector General, "Audit of the Followup Process for External Audits in Federal Student Aid," (June 2015); U.S. Department of Education Office of Inspector General, "Federal Student Aid's Performance as a Performance-Based Organization," (December 2008); Government Accountability Office, "Office of Federal Student Aid: Better Strategic and Human Capital Planning Would Help Sustain Management Progress," (October 2004); Government Accountability Office, "Federal Student Aid: Additional Management Improvements Would Clarify Strategic Direction and Enhance Accountability," (April 2002).

generally be accurate and up to date in NSLDS."[17] However, it is commonly known that NSLDS is unacceptably slow, usually taking between 30 and 60 days on the short end to update records. Regardless of how often schools report enrollment (and note, they do not have an option to be late, without serious repercussion), the time lags and general clunkiness of the process precludes the ability to have accurate, updated enrollment information for a significant percentage of borrowers in the system.

For a second example, related to the gainful employment issue mentioned above, an institution reached out to FSA to share a concern they had about a difference of opinion with their software provider about a specific requirement. While FSA staff agreed with the institution's perspective, they were not willing to reach out to that software provider to correct them, even though that particular provider serviced thousands of institutions. Instead, FSA told the institution they would have to encourage the software provider to reach out to FSA for assistance. If that seems unhelpful and needlessly bureaucratic, that's because it is.

Recommendations

Both in response to the content delivered in the testimony above and in the spirit of desiring to improve the partnership between FSA and schools, NASFAA offers the following recommendations.

1. **FSA needs additional oversight and accountability.** Congress should reexamine its role in confirming the COO. The results of accountability measures must be prominently available to the public and on an official schedule required by Congress. We would recommend more recurring hearings on FSA's effectiveness and how well it is serving students and partners.

[17] Federal Student Aid, IFAP, "School Responsibilities Upon Receiving Paper In-School Deferment Forms," (March 12, 2015), http://www.ifap.ed.gov/eannouncements/031215SchoolResponsibilitiesUponReceivingPaperInSchoolDefermentForms.html

2. **Congress should hold FSA more accountable to ensure FSA meets statutorily required deadlines.** Given the amount of funds that flows through FSA annually ($133.8 billion a year in grants, work-study funds, and low-interest loans to approximately 12.9 million students in FY2014[18]), the range of entities and students who are affected each year by FSA functions, and the importance of education to our national well-being, annual hearings to follow up on required FSA strategic planning and annual reports would heighten and reinforce accountability. Congress should also set standards for FSA's response time for items such as program approvals and renewals. NASFAA's Reauthorization Task Force made a recommendation on this: Require the Department of Education to provide the final report for a Program Review to an institution within 60 days after receipt of the institution's response.[19]

   Congress could also go beyond FSA's self-assessment, and as it has done in this hearing, call for independent assessments by institutions, students, and other partners. A robust survey of school satisfaction, with assurance of anonymity, should be conducted on a regular basis.

3. **FSA should consult schools and partners before making strategic plan changes and updates.** Administration of federal student assistance is a highly complicated affair; FSA cannot achieve good results if it acts in isolation from the entities affected by its actions. FSA needs to be accountable to its partners, including with schools that carry out its mandates and help to achieve its goals.

   In addition, before FSA undertakes any major strategic plan changes or performance initiatives, including those mandated at higher levels within the Department of Education, it should be required to consult with its

[18] Federal Student Aid, "Annual Report FY2014," (November 2014), https://www2.ed.gov/about/reports/annual/2014report/fsa-report.pdf
[19] NASFAA, "Preliminary Report of the Reauthorization Task Force," (July 2013). http://www.nasfaa.org/uploads/documents/ektron/eb252365-beb1-44d9-945a-02b58016e107/b689608cc4194ce2b35ad70c374b18062.pdf

partners to gauge impact and determine the most effective process for implementation. Consultation needs to continue throughout the process to rectify unanticipated problems or curtail damage caused by unintended consequences.

4. **FSA should establish basic, measureable customer service goals.** Currently, FSA does not have basic customer service goals, such as measuring the time it takes to complete certain tasks, approve program additions or changes, respond to processing questions, and submit final compliance review reports.

   Just as there is a Master Calendar in the law for ED's major annual activities, FSA should have an internal calendar or timeframes for accomplishing basic functions. This is a key part of the partnership: Schools must report data and certain activities, such as program additions or additional locations by specified deadlines and they must respond to ED oversight such as program reviews, within a clearly defined timeline. However, ED, and FSA in particular, are not held to similar standards. The time it takes to complete certain tasks, such as approving programs, issuing guidance for new initiatives, and communicating final compliance review reports, needs to be reasonable and measurable against an established expectation.

5. **Congress should consider whether FSA should have as many responsibilities as it currently does.** Is it appropriate for FSA to be in charge of all implementation, all training, all program reviews and approvals, but also ultimately deciding on who can and cannot participate in the Title IV programs? As we have pointed out, FSA is a large and complex bureaucracy with a wide range of functions that can sometimes conflict with or overstep each other. For example, if FSA training or other guidance is unclear, in error, late, or misleading, can FSA compliance reviews be totally objective? One organization in charge of implementation, training, program approval, compliance reviews, serving both gatekeeping and penalty functions, is a

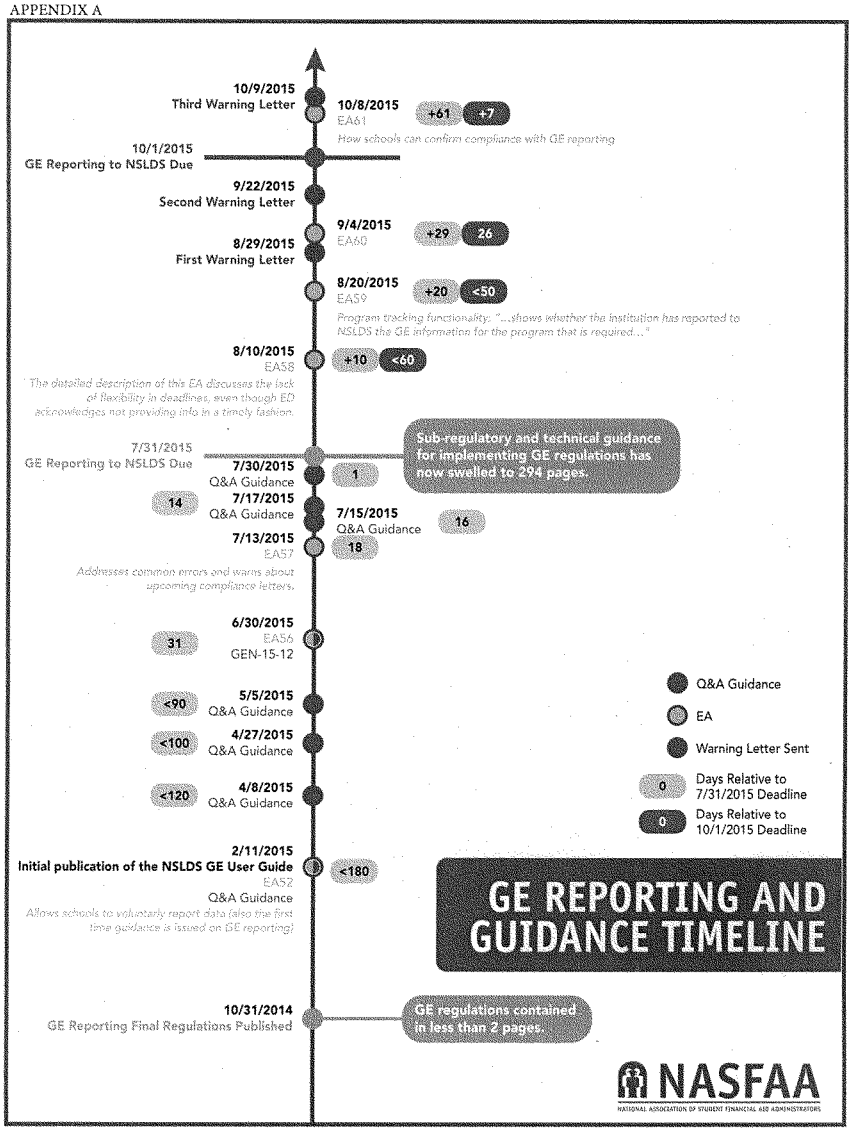
tall order and rife with conflicts of interest. Such an approach can have advantages but only if it communicates effectively and objectively.

6. **FSA should consider partnering with and/or studying other PBOs to evaluate themselves against partners and also to share best practices.** The identification of best practices is a commonly recognized approach to assessing and improving performance. FSA should seek out and study other PBOs to exchange information about organization, performance metrics, assessment of success, and reporting to oversight entities.

Conclusion

We do not believe that any of these challenges are insurmountable. By increasing partnerships with schools, increased accountability to the public and stakeholders, and some structural changes that must be made in law, we believe that each of these issues can be appropriately addressed. The continued disregard for required reporting and planning procedures, overzealous oversight, and botched implementations all indicate that we need to demand more. When these changes are appropriately implemented, we believe that FSA can be the partner that schools and students need by providing the best-in-class service as mandated and intended through the PBO designation.

APPENDIX A


10/9/2015
Third Warning Letter
10/8/2015
EA61
+61
+7
How schools can confirm compliance with GE reporting
10/1/2015
GE Reporting to NSLDS Due
9/22/2015
Second Warning Letter
9/4/2015
EA60
+29
26
8/29/2015
First Warning Letter
8/20/2015
EA59
+20
<50
Program tracking functionality: "...shows whether the institution has reported to NSLDS the GE information for the program that is required..."
8/10/2015
EA58
+10
<60
The detailed description of this EA discusses the lack of flexibility in deadlines, even though ED acknowledges not providing info in a timely fashion.
7/31/2015
GE Reporting to NSLDS Due
Sub-regulatory and technical guidance for implementing GE regulations has now swelled to 294 pages.
7/30/2015
Q&A Guidance
1
14
7/17/2015
Q&A Guidance
7/15/2015
Q&A Guidance
16
7/13/2015
EA57
18
Addresses common errors and warns about upcoming compliance letters.
6/30/2015
EA56
GEN-15-12
31
<90
5/5/2015
Q&A Guidance
<100
4/27/2015
Q&A Guidance
<120
4/8/2015
Q&A Guidance
Q&A Guidance
EA
Warning Letter Sent
0
Days Relative to 7/31/2015 Deadline
0
Days Relative to 10/1/2015 Deadline
2/11/2015
Initial publication of the NSLDS GE User Guide
EA52
Q&A Guidance
Allows schools to voluntarily report data (also the first time guidance is issued on GE reporting)
<180
GE REPORTING AND GUIDANCE TIMELINE
10/31/2014
GE Reporting Final Regulations Published
GE regulations contained in less than 2 pages.
NASFAA
NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS

GE REPORTING

10/31/14 GE Reporting final regulations published

2/11/15 **Initial publication of the NSLDS GE User Guide (263 pgs)** (<180 days)
- Technical manual for schools to use when reporting GE data.

EA 52 (2 pgs) (<180 days)
- Schools may voluntarily report data; Reminder about 7/31/15 deadline.

Q&A guidance (<180 days)
- Transfer of still-applicable guidance from prior GE regulations to new Q&A site.
- Details about reporting due on 7/31/15 and 10/1/15.

4/8/15 Q&A guidance (<120 days)
- Reporting institutional debt.

4/27/15 Q&A guidance (<100 days)
- Reporting enrollment status.

5/5/15 Q&A guidance (<90 days)
- Private loans, institutional debt for students enrolled in more than one program.

6/30/15 **Updated version of the NSLDS GE User Guide** (31 days)
- Technical manual for schools to use when reporting GE data.

GEN-15-12 (12 pgs) (31 days)
- Summary of regulatory requirements; Reminder about 7/31 deadline.

EA 56 (1 pg) (31 days)
- Updated GE user guide; Reminder about 7/31 deadline.

7/13/15 EA 57 (2 pgs) (18 days)
- Addressing common errors.
- Warning about compliance letters.
- Reminder about 7/31 deadline.

7/15/15 Q&A guidance (16 days)
- Reporting students without Title IV aid until subsequent years of enrollment.

7/17/15 Q&A guidance (14 days)
- Determining and reporting assessed amounts for tuition, fees, books, supplies, and equipment.

7/30/15 Q&A guidance (1 day)
- Confirmation of reporting submission and finding and resolving errors.
  - o Guidance does not indicate how to confirm compliance, only that the school did not make errors during the submission process.

7/31/15 GE reporting to NSLDS due
- 2008-09 to 2013-14.
- Medical/Dental residency programs 2007-08 to 2013-14.
  - o 2006-07 to 2010-11 was previously reported 11/15/11, but had to be re-reported under the new rules. Nov. 2011 due date was an extension from the original 10/1/11 date. No extensions provided with the new regulations.

8/10/15 EA 58 (2 pgs) (+ 10 days) (<60 days)
- Clarifying how to report programs that were discontinued/ceased to be eligible before 7/1/15 (effective date of regulations).
  - o Some programs still had to be reported, but no extension provided.
  - o "While the deadline for reporting has now passed, we understand that some institutions may not have understood that reporting for discontinued programs is required. Moreover, these and other institutions would not have had the guidance provided above when they reported for their programs. If your institution has not yet reported all required data, your institution should do so as soon as possible. We expect to send letters by the end of the month to institutions that have not reported or who may have reported incomplete data."

8/20/15 **Updated version of the NSLDS GE User Guide** (+20 days) (<50 days)
- Technical manual for schools to use when reporting GE data.

EA 59 (2 pgs) (+ 20 days) (<50 days)
- Program tracking functionality: "...shows whether the institution has reported to NSLDS the GE information for the program that is required..."
  - o 9 calendar days before the first warning letter (8/29/15).

8/29/15 First warning letter
- Referenced in EA 60

9/4/15 EA 60 (3 pgs) (+ 29 days) (26 days)
- Reporting/Resolving incorrect credential level data; Required separate NSLDS and COD corrections.
- 6 calendar days after first warning letter.

9/22/15 Second warning letter

10/1/15 **GE reporting to NSLDS due**
- 2014-15 data for all programs.

10/8/15 EA 61 (2 pgs) (+ 61 days) (+ 7 days)
- How schools can confirm compliance with GE reporting.
  - o 1 day before third warning letter (10/9/15).

10/9/15 Third warning letter

10/15/15 **Updated version of the NSLDS GE User Guide** (+68 days) (+14 days)
- Technical manual for schools to use when reporting GE data.

NASFAA
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Ms. FOXX. [Presiding.] Thank you, Mr. Draeger.

And, again, thanks to all of our witnesses who are here today.

I would now like to recognize Mr. Allen for 5 minutes for questions.

Mr. ALLEN. Thank you, Madam Chairman.

And thank you, panel, for being here today to talk about this very important work that you do. I mean, $1.18 trillion outstanding in debt, serving 41 million borrowers, that's a big job. And, certainly, we need to look at this very, very carefully to see if we are getting the results that we want out of this program.

One of the things that I hear in my district is that there are lots of jobs, very good-paying jobs available. And I have been amazed, at my short time here in Congress and on this Educational and Workforce Committee, that there is such a disconnect between the business community or manufacturing or the job creators and those in the education business. And somehow we've got to bring those together, because we've got students that are getting an education without the idea of perhaps what they are going to do and how they are going to pay this money back.

With that, Mr. Runcie, I'd like to start out with my first question. The bipartisan budget agreement just signed into law allows the Federal Government and its contractors to use predictive dialing to reach borrowers on their cell phones in order to help them avoid or get out of default.

Can you discuss the administration's views on how this technology will aid FSA's efforts to assist these struggling borrowers?

Mr. RUNCIE. Sure.

You know, part of the difficulty of making sure that students do not go into default or late-stage delinquency is being able to reach them. You know, that is sometimes the biggest impediment to making sure that they can get the tools and the resources they need to address some of their default management, you know, issues.

And so that is a tool that would be helpful in order to increase some of the efficiencies around reaching out and getting these students and borrowers to act. We've got income-based repayment, we've got lots of tools that they can use that we've rolled out over the last couple of years. And the ability to reach them so that they're aware of these through something like TCPA would be tremendously helpful.

Obviously, you know, that's going to take some time to implement, and it's going through a process now, but we stand ready to use that type of technology to address those issues.

Mr. ALLEN. So, in other words, the administration is in favor of using this method to get in touch with the students in accordance with the bipartisan budget agreement?

Mr. RUNCIE. I'm just saying that it would—I believe so, but, just from an operational standpoint, it would help outcomes.

Mr. ALLEN. Okay. Thank you, sir.

Ms. Emrey-Arras, like I said, we're 41 million borrowers, $1.18 trillion. And the GAO found that the FSA is lacking, resulting in inconsistent and ineffective programs for borrowers.

How has the lack of guidance and communication affected servicers' ability to assist our borrowers?

Ms. EMREY-ARRAS. Basically, servicers treat borrowers differently. So you could have the same borrower with the same financial circumstances, and they might get completely different advice, depending on which servicer they contact.

This is because Education has not provided consistent instructions and guidance to servicers on how to apply payments like underpayments and overpayments, how to deal with different types of income documentation, and the like. So there is really missing instruction that could really help ensure consistency and serve borrowers.

Mr. ALLEN. Has the FSA been diligent in oversight of this issue?

Ms. EMREY-ARRAS. We believe that FSA could do more. For example, servicers we spoke with said it would be very helpful to have a manual, which would be just very simple in terms of what the instructions are for implementing the program to make sure that there is consistency.

So that is something that we have put out there as part of our recommendation to provide guidance, that FSA consider having a basic operations manual for servicers.

Mr. ALLEN. Uh-huh. As the chair of our hearing said this morning, Congress obviously needs to step it up. What can Congress do?

Ms. EMREY-ARRAS. Well, we haven't made any recommendations to Congress in this testimony. I will defer to others on that point.

Mr. ALLEN. Okay. All right.

Well, I'm just about out of time, so I'll yield back the balance of my time.

Ms. FOXX. Thank you, Mr. Allen.

Mr. Hinojosa, you are recognized for 5 minutes.

Mr. HINOJOSA. Thank you, Madam Chair.

My first question is to Mr. Runcie.

I understand that many borrowers are unaware of the Federal Government's income-driven repayment plans. What is the FSA doing to increase awareness about income-driven repayment plans that I mentioned?

Mr. RUNCIE. There are a number of things that, you know, we're doing, but what I want to emphasize is the rate of growth in the takeup in income-based repayment. It's been phenomenal. So a significant percentage of the portfolio and a growing percent is now using income-based repayment.

A lot of that has to do with we've had targeted email campaigns. We've changed the incentive structure for our servicers. We've created Web sites with information about income-based repayment. We've worked with Treasury and Intuit in terms of mechanisms and activities that create awareness around these programs.

So we've done a lot, but, more importantly, the outcomes are evidencing that the outreach and the awareness that we're putting out there is making a difference.

Mr. HINOJOSA. I'll be back to you.

Mr. Ben Miller, as you know, student loan debt stands at the $1.2 trillion that has been repeated over and over again. In your expert opinion, what steps has the Obama administration taken to expand accessibility and affordability in higher ed?

Mr. MILLER. So there's been a number of important steps.

And, I mean, obviously, the best form of student loan debt is no student loan debt. And this is something where the Obama administration has done a lot, especially beginning with the Recovery Act, where it invests in a lot of additional money in Federal Pell grants to help the lowest-income students.

It then followed that up in 2010 with additional money for Pell grants by ending the bank-based loan system, which allowed, I believe, about $36 billion to go to Pell grants.

The result is that, before this administration came in, the Pell grant had been a largely stagnant maximum award. It has now gone up by a little bit over $1,000, which has meant a lot for low-income students.

In addition, several of the income-driven repayment plans that have already been discussed have been important for helping borrowers manage their debt so that, now, basically any borrower who enters repayment knows that they will be able to cap their loan payments at about 10 percent of their discretionary income. If they engage in public service, they'll be able to get forgiveness after 10 years, and, otherwise, they'll be able to get forgiveness after between 20 and 25 years.

Mr. HINOJOSA. I agree with you. Those are very good things that occurred. I was chairman of the committee, and so I agree with you, because we were addressing what the presidents of universities and the chancellors of university systems told us needed to be done.

My third question is to Mr. Runcie.

Several investigations have found that Federal student loan servicers whose contracts are managed by OSS may not be providing appropriate services. In September this year, 2015, the CFPB published a 150-page report detailing those servicers' issues and policy recommendations to fix the management of loan servicing.

What is FSA doing to ensure that those servicers are using due diligence in managing their portfolio?

Mr. RUNCIE. Yeah, and I believe the CFPB report also included information around sort of private loan servicers, as well.

But, you know, FSA has—in October of 2014, we came out with a new incentive structure and pricing model that we provided to all of the servicers, the TIVAS as well as the NFPs. And the structure of those contracts and the way the pricing is, it puts a tremendous amount of economic value on keeping students in repayment——

Mr. HINOJOSA. Excuse me. Time is running out. Can members of this committee, of the two committees, get copies of that latest instruction manual that you are discussing here?

Mr. RUNCIE. Yes, we can provide the——

Mr. HINOJOSA. Well, let me say that, as time is running out, I want to say that this is amazing to me, a business as big as higher education, where we are talking about billions and trillions of dollars, that we don't have penalties for some of these that are violating the rules, like the one that just took bankruptcy and was shut down.

What is the name of that organization, that university? Corinthian.

Mr. RUNCIE. Yeah.

Mr. HINOJOSA. All of this to say that it seems to me that Congress should give instructions that the people who violate, as they are, should receive penalties that are to the individuals who are making those decisions. There should be fines and imprisonment. There has to be something that is going to stop this.

It was back before 2010, and if I may quickly say, that we were seeing students getting student loans at 10 and 12 percent from banks and other groups, even from universities. New laws came in, as were pointed out, that we could make direct loans at 5 percent. And then, of course, the lobbyists came down on us real hard to stop doing that because their banks were not making all that money with guaranteed Federal loans.

So we really need to really put in some time and come up with penalties that are going to stop that type of decisionmaking that was going on.

I yield back.

Ms. FOXX. Now, Mr. Meadows, you're recognized for 5 minutes.

Mr. MEADOWS. Thank you, Madam Chairman.

Mr. Runcie, I'm going to come directly to you. The oral testimony Ms. Emrey-Arras and Ms. Tighe was kinder than perhaps the written testimony that I've seen. And so I'm going to come to you because my role is more oversight, not as much on the policy side of things.

So how much do we pay out in improper payments every year?

Mr. RUNCIE. Well, we have improper payment estimates. So we don't actually make payouts. Right? So, for instance, we have——

Mr. MEADOWS. But you have oversight. You're the COO. And so as we look at the improper payments, how much do the American taxpayers—can they recognize in terms of improper payments?

Mr. RUNCIE. So improper payments there are two categories. There are direct loans and Pell.

Mr. MEADOWS. Combined, what's the total?

Mr. RUNCIE. The combined total is about $1.8 billion of estimated improper payments. That's done through sampling techniques, and we look at information and then extrapolate that it would be one point——

Mr. MEADOWS. Well, I've only got 5 minutes. So let me interrupt you.

If that's your official testimony, I guess my question is, is how do you know? Because you've changed the methodology, didn't you, Mr. Runcie, on how you evaluated improper payments?

Mr. RUNCIE. That methodology was approved by OMB. So——

Mr. MEADOWS. You changed it in fiscal year 2013.

Mr. RUNCIE. That's right.

Mr. MEADOWS. And then the improper payments amount doubled. Is that correct? That's the information I have——

Mr. RUNCIE. We changed.

Mr. MEADOWS. —from about $2 billion to about $4 billion?

Mr. RUNCIE. No, it's about $2 billion. I'm not sure the timeframe that you're talking about, but the estimated improper payment——

Mr. MEADOWS. How many times have you changed the way that you figure improper payments, Mr. Runcie?

Mr. RUNCIE. Once since I've been at FSA. So we changed it——

Mr. MEADOWS. Well, I'm going to give you a chance to check with your folks behind you. Because I have information that would indicate you've changed it twice.

Mr. RUNCIE. Okay. So what I'm saying is that when we change the improper payment methodology, it's based upon some analysis that we do. That analysis was—we had some disagreement in terms of the appropriateness of——

Mr. MEADOWS. I'd say major disagreement. So let me go on a little bit further. So let me interrupt because I need to get to an answer here.

Mr. RUNCIE. Okay.

Mr. MEADOWS. Here's my concern. You have improper payments of about $2 billion under a scenario that you're—and I'm rounding off. You change the scenario after that same method of calculating it showed that you had $4 billion in improper payments, and you go retroactively to OMB and say: We want a new process to be able to evaluate that. Is that in general terms how it worked?

Mr. RUNCIE. My understanding is OMB is the authority. They sign off on it. It is——

Mr. MEADOWS. I agree.

Mr. RUNCIE. And it is appropriate.

Mr. MEADOWS. All right. So are you following OMB guidelines? Be careful how you answer.

Mr. RUNCIE. OMB has approved the methodology that we use for——

Mr. MEADOWS. Are you using their approved methodology?

Mr. RUNCIE. That's what we used for 2015 and 2014.

Mr. MEADOWS. Okay. So let me ask you this, then. Their methodology, from what I understand, would include a sample size of 300. And yet according to the information I have, you're only analyzing 79 cases, which is statistically not accurate. It's not even following what OMB has indicated. Are my numbers correct?

Mr. RUNCIE. I don't have the numbers——

Mr. MEADOWS. Ms. Tighe, are they correct?

Ms. TIGHE. FSA originally went to OMB with a sample size of about 311 reports. I believe they did get permission to, when they realized they weren't going to have that sample size, they went and got permission to use draft reports. But that dropped them to about 90 reports instead of 311.

Mr. MEADOWS. Yeah. I show 79 plus 21, so—is the numbers that I show.

So, Mr. Runcie, let me tell you why I'm troubled by this. Let's put it in education terms. It's like a student is going through and taking an SAT and we're getting certain trends. And then all of sudden we don't like the trends we see and we change the goalpost, we change the way that we do the methodology, so that the SAT scores look a little bit better. Would you not agree that that's what the Department of Education has done?

Mr. RUNCIE. We're a performance-based organization. We have an obligation to continue to refine, innovate, and look at best practices.

Mr. MEADOWS. All right. In the 24 seconds that I have left, at what point will you start to comply with the OMB guidance on how

we're to have a sample size with 300? At what point are you going to do that?

Mr. RUNCIE. The methodology that we use has been approved by OMB.

Mr. MEADOWS. Okay. That's your testimony. All right. Here's what I would ask you to do is report back to this committee with OMB and see if they're in compliance. And I would ask the inspector general and GAO to see if they concur with your decision.

And I appreciate the patience of the chair.

Ms. FOXX. Thank you, Mr. Meadows.

Ms. Plaskett, you're recognized for 5 minutes.

Ms. PLASKETT. I think——

Ms. FOXX. We're alternating between Education and Oversight. So it is your time.

Ms. PLASKETT. Thank you. I don't want to, you know, mess up the protocol. Thank you so much.

Ms. Tighe, yesterday at the Oversight and Government Reform Committee you testified that a company in Georgia, a subcontractor, refused to give your office access to information you needed. Is that correct? This was regarding a Federal Information Security Management Act?

Ms. TIGHE. That's correct.

Ms. PLASKETT. Okay. And you testified that the name of the company that refused to give you that access was TSYS. Is that correct?

Ms. TIGHE. That's correct, TSYS.

Ms. PLASKETT. And who's the prime contractor since that——

Ms. TIGHE. Accenture.

Ms. PLASKETT. This is a government contract paid for by taxpayer funds to a subcontractor?

Ms. TIGHE. Yes.

Ms. PLASKETT. And did you ask for TSYS, for a copy of the contract? And if so, did they give it to you?

Ms. TIGHE. Well, there's many layers of issues. We asked for—after we were—did not get the complete information we needed to audit the system that they were operating, we asked FSA for a copy of the contract between Accenture and TSYS. They suggested initially that we go directly to Accenture ourselves and get a copy of it. I personally thought it was FSA's responsibility because the subcontractor was operating their system and that they should go get a copy. They were not able to do that.

Ms. PLASKETT. But wouldn't—I mean, I know that you want to go talk about the Department. But this is a contractor and a subcontractor to the government.

Ms. TIGHE. Yes.

Ms. PLASKETT. And don't they have a responsibility to give you that information when you ask for it? That's a yes or a no. Do they have a responsibility to give you that information?

Ms. TIGHE. Yes.

Ms. PLASKETT. And so what is the mechanism that you have in place to ensure that they do that rather than going to the Department, but to get that information from the contractor?

Ms. TIGHE. Well, my mechanism when they don't supply information to me is to do a subpoena. I have——

Ms. PLASKETT. And have you done that?

Ms. TIGHE. I have not done that in this case yet, no.

Ms. PLASKETT. Do you plan on doing that?

Ms. TIGHE. For the contract, I don't know. We have contemplated—I mean, my biggest concern was not the contract itself. My biggest concern is the information that we needed to do our vulnerability assessment of the mainframe on which the common origination disbursement system rests in Columbus, Georgia, that we were not able to do because TSYS did not give us all the information we needed. That information I may yet subpoena.

Ms. PLASKETT. But, I mean, I have a fundamental problem with a contractor or subcontractor to the government, the United States Government, not giving the inspector general information when they're asking for it.

Mr. Runcie, from the Department's perspective, don't your contractors and subcontractors have an obligation to give that information to the IG?

Mr. RUNCIE. I believe so.

Ms. PLASKETT. And when do you think the subpoena power should be enforced to make sure that that happens?

Mr. RUNCIE. That's not my call. But what I will say is that we tried everything that we could. I mean, I think we worked with the inspector general, OCIO. We got the prime, we got the subcontractor, we got our contracting officer. We had a number of people exert a maximum amount of effort to get them to provide the information that the inspector general wanted. And I was disappointed that we couldn't get that.

Ms. PLASKETT. So can the Department withhold funds from not just the subcontractor but primarily the contractor, Accenture, until it complies with the request of the inspector general?

Mr. RUNCIE. Our contract is with Accenture. And if——

Ms. PLASKETT. Because they haven't given the information either. Have they? Accenture.

Mr. RUNCIE. Well, it's not their information. It's the information that the subcontractor——

Ms. PLASKETT. Well, the contract itself. Right? Would be for Accenture.

Mr. RUNCIE. Yes. But the contract—my understanding, based upon conversations with our contracting officer, is that is a commercial contract between Accenture and TSYS. We don't have the contractural right to get that contract.

Ms. PLASKETT. What do you say to that, Ms. Tighe?

Ms. TIGHE. I'd say that view is interesting in light of the fact that TSYS is in charge of operating one of most significant data systems that FSA has.

Ms. PLASKETT. Well, you know, I know that the chairman of Oversight and Government Reform, Mr. Chaffetz, yesterday talked about writing a letter to the subcontractor. I think that a letter also needs to probably be written to the contractor in this case.

Ms. TIGHE. I would agree.

Ms. PLASKETT. Okay. Thank you.

I have no further questions. Thank you.

Ms. FOXX. Thank you very much.

Mr. Guthrie, you're recognized for 5 minutes.

Mr. GUTHRIE. Thank you, Madam Chairwoman. I appreciate that. And I appreciate you all being here. This is a timely subject to me. I have one child that just left college, one in college, and one we just did a college tour, and you sit there, as they say, the cost of attendance. And you're saying: How do people do this? It is very difficult. And it's something that I know we're involved in doing.

And so since you're kind of peers with my age group, I have a lot of—that's why I hear a lot of parents talk about the affordability of college. So it is on a lot of people's minds. A lot of that happens at the State level, I get it. But having an adequate and a good service program. And I can't go without pointing out, because I started talking about this in 2009, and I still say it again: $10 billion of Federal money that's paid by students back to the Federal Government. So the profit from operating the program goes to pay for the Affordable Care Act. So that's almost $1 billion a year goes to pay—so I just want to remind people that money that students pay for their colleges is diverted to the Affordable Care Act. So almost $10 billion over 10 years. That's over 10 years.

So, Mr. Runcie, I want to ask you a question. Throughout the GAO's testimony, there are numerous examples of FSA falling short in its management and oversight of servicing contracts. A major consequence of the oversight deficiencies is that borrowers in turn face inconsistent experiences in services. This is a far-reaching consequence that FSA, as a performance-based organization, is tasked with fixing. Keeping in mind that until these problems are rectified borrowers will continue to lack the kind of service required by FSA's PBO designation. And I have a few questions based on that.

When will the clearer guidance to help servicers interpret income documentation be ready?

Mr. RUNCIE. So, I just want to give you some context in terms of why there may be some differences between, you know, the servicers and how they, you know, treat specific incidents. Right? So we had to stand up the TIVAS, the four servicers, in a pretty short window. And we allowed them to use their commercial practices and their commercial, you know, operations. And because of that there are variations. And those servicers also provide those services to the FFEL program. So there were inconsistencies there from a servicing perspective. But in order for us to quickly ramp up to deal with the volume that we did, we had to leverage our commercial operations.

There were differences in some of their practices. Those differences still exist. And we provided guidance and clarification for some of those. But ultimately we're entering into a recompete process that will start in January of 2016. And through that process we're going to be able to do some things like standardize common practices, have common branding, and to address some of those issues.

Mr. GUTHRIE. Okay. So I understand that. And I understand how quick, because it all happened in the Affordable Care Act quickly. We had discussed it in this committee for a while, but it kind of just came into being because of the money needed to pay for the Affordable Care Act.

So when will the—so I understand the problem. So when is it going to be fixed?

Mr. RUNCIE. Well, first of all, some of this stuff has been—some of the things we can address we've addressed, like the capitalization of interest. Other things like over and underpayments that were mentioned before, we're working with CFPB. They're an organization that understands some of the issues around what the best practices in terms of dealing with that. So, you know, I don't have a specific timeframe. But I would say within 2016 certainly.

Mr. GUTHRIE. Within 2016.

Mr. RUNCIE. Yeah.

Mr. GUTHRIE. And then also the servicers expressed for a common manual, I think we talked about it a little earlier with Ms. Tighe, similarly to those that exist with.

Mr. GUTHRIE. FFEL in order to help solve consistency. Do you have plans to have a common manual? And when will that be ready.

Mr. RUNCIE. Yeah. The common manual will be something that based upon our recompete strategy we'll be able to put together. However, the common manual that existed before, there were still differences between the way those servicers who used the common manual, you know, addressed borrower issues. So I think the platform that we're—the place we're looking to go is to be able to standardize a number of processes as we go through recompete process.

Mr. GUTHRIE. Is there a date that you think——

Mr. RUNCIE. Well, the recompete process is going to start 2016, January 2016. That's our target. The contracts themselves wind down—the existing contracts today wind down in 2019. So there would be a transition period.

Mr. GUTHRIE. Okay. I'm about to run out of time, but real quick, I have a bill that—we've seen, particularly Indiana University be extremely successful with financial accounting. So I have a bill, H.R. 3179. But my understanding in the law that currently requires financial counseling, but I think up to 40 percent of the students interviewed said that they don't remember, recall, ever being financially counseled. So we know that financial counseling makes a difference. It does in the Indiana model anyway, and the Indiana University has been very successful. Is there a plan to fix that problem under the current law? We're trying to change the law, but is there a plan to fix where we are under the current law?

Mr. RUNCIE. Yeah, I mean, you know, there are policy changes that can be made. But clearly we—our exit counseling—it does make a huge difference. I think the multiple's you're two times less likely to miss a payment if you go through counseling, at least our counseling that we have in place. And so we have a lot of the tools. You know, I'm not sure what the hit rate is in terms of, you know, people actually using those tools, but it is a requirement.

Mr. GUTHRIE. Thank you. My time has expired.

Ms. FOXX. The gentleman's time has expired.

Mr. Scott, you're recognized for 5 minutes.

Mr. SCOTT. Thank you, Madam Chair.

Mr. Runcie, we've heard from a number of sources that the FAFSA form is so complicated that a significant number of people

are not applying to college or not getting the aid to which they're entitled. They are a lot of suggestions in simplifying the form. One is using prior-prior year taxes. Have you adopted that?

Mr. RUNCIE. Yes, Congressman Scott, we have a project timeline and a plan, and we've allocated resources to have prior-prior instituted by October of 2016. And that would be a tremendous opportunity to increase access and make it simpler and easier for people to complete the FAFSA.

Mr. SCOTT. Another recommendation was to have easier access to Internal Revenue information. Have you adopted that policy?

Mr. RUNCIE. Yes, I mean, we have—you know, the income—we have the DRT tool, which is a data retrieval tool that allows for automatic retrieval of the tax information right into your FAFSA form, as well as for income-based repayment for those repayment plans. You can also leverage the automatic IRS tools.

Mr. SCOTT. So that's available now?

Mr. RUNCIE. Yes, that is available now.

Mr. SCOTT. What about if you are eligible for a means-tested program, are you using that recommendation?

Mr. RUNCIE. I'm sorry, for what tested?

Mr. SCOTT. Means-tested, like foods stamps or other kinds of income-based programs. If you're eligible for those programs that you would have a simplified FAFSA form?

Mr. RUNCIE. I'm not sure on that. I'm going to have to come back to you on that, Congressman Scott.

Mr. SCOTT. Are there any additional changes that you will be recommending that might need congressional action?

Mr. RUNCIE. Not at this time. I think we're just really focused on making sure that we can hit the prior-prior and then move the FAFSA form from January to October. Historically the FAFSA form has been available in January. This is a tremendous change because while you're applying for school in the fall, you can now know how much you're eligible to get in terms of financial aid. That's going to make a lot of difference in terms of people having the understanding that they can actually be able to go to college. So that's a huge, huge step.

Mr. SCOTT. We had a question about allocation of payments when a person has multiple loans. How were those allocated in terms of whether or not the payment goes to those loans with higher interest rates?

Mr. RUNCIE. Yeah. So that's where there has been some flexibility. And that's the issue that we're working on with CFPB and other agencies who have expertise in terms of what would be the best practices for borrowers. So that is an issue that we're focused on and we're going to address, you know, as soon as we establish what the best practices are and make that commonplace across——

Mr. SCOTT. Are there any efforts to participate in outreach to maximize the number of students applying for financial aid or to inform students of various repayment plans rather than just react to their applications?

Mr. RUNCIE. Yeah. So we have targeted outreach campaigns. So we do emailing. We have a lot of social media, whether it's Twitter, you know, Facebook, YouTube. So we leverage that infrastructure

to provide as much information about our repayment plans as possible.

In terms of the front end, in terms of the takeup in FAFSA, we have a FAFSA completion project and a FAFSA completion tool that we've used to create more FAFSA filers, a greater percentage of high school seniors filing FAFSAs, which is an indication as to whether you will enroll in college.

Mr. SCOTT. In terms of efficiency, are there any investments that you need to make in terms of equipment or software that would help you become more efficient that you don't have funding for?

Mr. RUNCIE. You know, I think—well, we're in the process of establishing enterprise data warehouse, which is one of the things that we're trying to leverage, create an infrastructure where we can use more data to have more predictive analysis, as well as to look at how we can improve ourselves operationally. Also, from a program compliance standpoint, we would be able to leverage some of that data to, you know, find out where there's more risk. I think our issue is the entire infrastructure needs to grow, and in order to be able to grow the infrastructure and have the type of security, and some of the other things that we need, we're going to need additional resources.

I saw the budget, the Senate and the House budget. I don't know if it's appropriate to bring that up, but with that shortfall, there may be certain things that we will not be able to deliver.

Mr. SCOTT. If you could give us the details on what you could not deliver without the money, that'd be helpful.

Mr. RUNCIE. Okay. Terrific. Thank you.

Mr. SCOTT. Thank you, Mr. Chairman.

Ms. FOXX. Thank you, Mr. Scott.

Mr. Walberg, you're recognized for 5 minutes.

Mr. WALBERG. Thank you, Madam Chairman. Thank you to the panel for being here.

Mr. Runcie, when was the last time FSA released a performance plan?

Mr. RUNCIE. We released our strategic plan—I believe it was updated—I believe we released it—if it hasn't been released, it will be released within the next month.

Mr. WALBERG. Before that when was the last plan released?

Mr. RUNCIE. We update our strategic plan every year. Every few years we have what we call a full strategic plan where we do an environmental scan. We solicit market information. We talk to——

Mr. WALBERG. But when was the last plan that was introduced? Because I understand it's supposed to be every 5 years. Correct?

Mr. RUNCIE. Yeah.

Mr. WALBERG. When was the last plan?

Mr. RUNCIE. The last plan—I think we just issued one this—within the next month I think we're issuing a plan. And before that we issued a plan in 2012. In 2012. So in 2012 we issued a strategic——

Mr. WALBERG. It wasn't 2010? When it was supposed to be back in 2010, it wasn't released until 2012?

Mr. RUNCIE. I know in 2012 we released a plan. I'll have to get you that information. I want to be precise. But——

Mr. WALBERG. I'd appreciate that.

Who'd you consult with when creating these plans?

Mr. RUNCIE. Well, what we do is we do a bunch of market research. We do environmental scans. And then there is a 30-day notice period where we send out the plans so stakeholders can provide comment on the plan. And that's why I'm a little bit confused. Because I know we sent a plan out, I believe, September of this year with a 30-day notice period so that we could get comments back on the plan. And we've done that historically and we've gotten comments. I don't believe this year we got a single comment.

Mr. WALBERG. Who would you normally consult with?

Mr. RUNCIE. Stakeholders that represent, you know, student groups. So student associations, school associations the Hill. So we would send that out to those stakeholders.

Mr. WALBERG. Mr. Draeger, when did the FSA consult you about it's 2015 plan?

Mr. DRAEGER. The last time that we were consulted by FSA was in 2012 where we highlighted for them the participation agreement delays, the delays in closing out program reviews, delays in guidance.

Mr. WALBERG. So that was 2012.

Mr. DRAEGER. Correct.

Mr. WALBERG. Not presently for the 2015 plan?

Mr. DRAEGER. We continue to raise the issue, but outside the context of an update to their plan.

Mr. WALBERG. In your experience, has FSA consistently consulted with schools, with leaders, with students, and other stakeholders prior to implementing a new plan?

Mr. DRAEGER. That has not been our experience, and we have not heard from schools that have been consulted directly either.

Mr. WALBERG. Mr. Runcie, then, by statute you're required to consult interested parties prior to implementing a new plan. Did you consult NASFAA? And I guess would you say NASFAA's an interested party?

Mr. RUNCIE. Well, my records, which I checked before I came here, indicate that we sent a notice to Justin Draeger, who is the head of NASFAA. So it was sent to him this year.

Mr. WALBERG. Well, we got a conflict here. So if you could supply us with accurate information as to that letter——

Mr. RUNCIE. We will supply that to you.

Mr. WALBERG. We'd appreciate that because Justin is shaking his head saying he's never received that letter.

Mr. RUNCIE. I understand that. And I will provide you the information.

Mr. WALBERG. Mr. Draeger, in your testimony you discuss how the working relationship between schools and FSA has become so strenuous that it's ultimately hurting students. Can you elaborate a bit more and discuss potential solutions?

Mr. DRAEGER. Yeah. I think one of the starkest examples has been the delays in the Department of Education in getting to schools all sorts of guidance which we've highlighted in our GE reporting example. Closing out program reviews. We have an instance where a large public 4-year school submitted all documents for a program review in October 2012. It wasn't until May 2015

that they were ever informed that their documents were being reviewed.

So we have significant timeframes where basically these program reviews aren't being closed out. It's perpetually hanging over the heads of these schools. And no entity, public or private, can operate with that level of uncertainty.

Mr. WALBERG. What recourse do they have if they're having problems in getting action from FSA. And I guess who can they appeal to as well?

Mr. DRAEGER. Yeah. The structure of FSA is such that there really is no appeal for the school. FSA provides all the guidance. They do all the program reviews. They make the determination about who can and can't participate in the Title IV programs.

Mr. WALBERG. So it's a black hole. If it doesn't work for them, ultimately they have no recourse.

Mr. DRAEGER. We're not familiar with any benchmarks that are published. There's no recourse beyond going back to the same entity that you've been trying to work with.

Mr. WALBERG. My time's expired. Thank you for your testimony.

Mr. RUNCIE. So is it possible for me to address that with the——

Ms. FOXX. I'm sorry, but the time is up.

Mrs. Maloney.

Mrs. MALONEY. I first would like to give him the time to address this.

Mr. RUNCIE. Thank you. I appreciate that.

So there may be anecdotes, but what I have is a folder of facts. I have the statistics on the cycle time for all our program reviews, our recertification applications. And so I'll just give you an example of why that—it's important to look at the facts. Just let me just put it this way.

So there was a 72 percent decrease in our cycle time, the days to conduct a program review, between 2011 and 2015. Last year the program review—we did 291 program reviews, and average processing time was 249 days. And as I mentioned, that was a significant reduction.

If you look at the recertification applications which are another point of contact with the schools, those are down significantly as well over the years. If you look at the approval applications, double digit percent reductions in the response time.

So when you're looking at a hundreds of actions, and if you look at the totality of it, there are about 2,000 interactions with the schools, all of those cycle times have been down significantly over the last 4 years. We can provide you with the information. So this anecdotal information about our performance is just not accurate.

Mrs. MALONEY. Thank you.

First of all, I would like to be associated with the comments of Dr. Foxx in support of our friend Ruben Hinojosa, and express my gratitude for his leadership and friendship. We've had the opportunity to serve together on the Financial Services Committee where he served with great distinction as he did in the overall body for his district. We will miss you, and I'm sad you're leaving.

I have a series of questions on the principles on student loan servicing. I understand others have expressed interest in it. And if

I don't have a chance to finish, I'd like to place them in the record for a response later.

Ms. FOXX. Without objection.

Mrs. MALONEY. Mr. Runcie, according to the Consumer Financial Protection Bureau, student loan debt is now at $1.2 trillion, and is now second only to mortgage debt. It is now even higher than credit card debt, which is staggering. So this is really incredible to see this type of large consumer debt growing in our country.

And earlier this year the Department of Education joined the CFPB and the Department of the Treasury in soliciting information about student loan servicing from public. And one key complaint raised by numerous respondents was, "Servicers of both private and Federal student loans may not inform borrowers experiencing financial hardship about available alternative repayment plans." We need to address this, and end this, and make sure students know all their alternatives. And how does your office examine whether servicers are providing repayment information to borrowers that is complete, accurate, timely, and also includes alternatives?

Mr. RUNCIE. Yeah. So and we have to—and, yeah, I agree with some of the findings that were mentioned today. We monitor calls. You know, but we could do that more efficiently, have more consequences around the call monitoring that we do.

As I mentioned before, in October of 2014 we changed the structure so there's a tremendous incentive on the part of the servicers to make sure that they keep—they inform borrowers of all their repayment plans so that they could stay current on their obligations. That was—you know, so we're still in the process of seeing the impact of that pricing change. But we're committed to making sure that we adjust that model to make sure that we have the proper incentives in place so the servicers will provide all the information they can about their repayment plans.

Separate from that, you know, we're doing our part in terms of our outreach, our communication, and, you know, leveraging our Web sites and so forth.

Mrs. MALONEY. Okay. How much of loan servicers' compensation is currently based on achieving specific customer service standards?

Mr. RUNCIE. Well, we have surveys. So there's a customer survey that is a component that's used. And based upon how they perform when we blend the customer survey along with some of the other components, for instance, you know, the percentage of loans that are in current repayment and certain other attributes, we look at that, but we also look at the survey results to see how they're performing from a customer perspective. And that determines their allocation which determines their economics. So we do use that as a part of our model.

Mrs. MALONEY. Okay. Thank you. My time has expired. Thank you, and I place the rest of my questions into the record to be answered. Thank you.

Ms. FOXX. Thank you, Mrs. Maloney.

Ms. Stefanik, you're recognized for 5 minutes.

Ms. STEFANIK. Thank you, Madam Chair.

I represent a number of higher education institutions in northern New York ranging from SUNY schools to community college to pri-

vate colleges. And I've visited every single one of them. And one of the conversations that I frequently have with students is that student aid programs are complex and challenging for them to understand.

And my question is for Mr. Runcie. One of the statutory purposes of the Federal student aid PBO is to make aid programs more understandable for students and their families. However, just last month GAO released a report that found many eligible borrowers aren't even aware of income-driven repayment plans, and therefore aren't able to make the decision to lower their payments and reduce the risk of defaulting on their loans.

How are you addressing this failure, and how are you educating servicers to make sure they can accurately explain this maze of repayment options to borrowers so they can access the help they need to repay these loans?

Mr. RUNCIE. Yes, I mean, so part of it is the overall complexity of student loan programs. So there are a lot of statutory programs. Certain things that we don't have control over. So it makes it much more difficult to make a decision about what the right repayment plan is.

In terms of income-driven repayment, we put out a targeted campaign that yielded pretty impressive results. We are doing another targeted campaign once we come out with REPAY. REPAY is an income-driven program that's going to expand the available universe of people that can participate in income-based repayment by another five million.

So on the heels of that, we're going to make sure that we send out a targeted email campaign. We've worked with other parties, as I mentioned before, Treasury, in terms of the income tax process. We've worked with Intuit in the past. So we're going to leverage partners and our own infrastructure and the servicers as well. Because, as I mentioned before, we changed the pricing model there.

So there are lots of things that we have done and that we plan to do. But I think what's most important is that since we started taking these actions, you can see the significant increase in the adoption of income-based repayment. So while there may be some folks that aren't aware, our hope is that as we continue to roll out our communications plan and our information, we will strengthen the universe of people who aren't aware. But, you know, I think we're continuing to push on that, you know, on that front, and we've made some tremendous, I think, progress.

Ms. STEFANIK. Well, I agree with you. Students have to be made aware of this. And this is a generational crisis that we are facing here with historic amount of student debt. And as a Millennial myself this is pushing off our next generation of leaders from buying their first home, from being able to save for the future. So I suggest we fix this program so that our young people are able to make good decisions and not default on their student loans.

My next question is for Mr. Draeger. In your testimony, you talked about the importance of accountability. And the lack of accountability, which is a key part of a PBO, tremendously erodes the good will between institutions and FSA. And you reference reporting requirements. Besides the gainful employment reporting dis-

aster that you referenced in your testimony, have there been other instances where unclear guidance or poor communication made it challenging for schools to do their jobs?

Mr. DRAEGER. There have been several examples where schools have tried to seek guidance from the Department of Education as deadlines loomed, whether it's with reporting requirements dealing with subsidized Stafford loan limitations which went into effect in the last year. The interesting—I'm also dealing in facts. We have 20 percent of our schools have reported operational shortfalls. That's a real number. Twenty percent representing six and a half million students where they cannot do their jobs because of the operational shortfalls that I've cited in my testimony.

The accountability thing, to me, is most acute when you look at the Department's last annual report where they acknowledge that they failed to achieve 2 out of 13 of their strategic objectives dealing with customer service to schools, customer service to students.

But then in the very next paragraph they detailed those failures as successes. They said, "Given the volume of new requirements over the past year, the small reduction in these scores on this metric is an indication of the success of FSA's outreach and support efforts." The problem with self-assessment is even when the Department fails them, deem it a success.

Ms. STEFANIK. Thank you. I yield back.

Ms. FOXX. Thank you.

Dr. Adams, you're recognized for 5 minutes.

Ms. ADAMS. Thank you, Madam Chair. And I want to thank the leadership of both subcommittees for this hearing. And I want to thank the witnesses as well.

I spent 40 years in the classroom, Bennett College in Greensboro, so higher education is a tremendous interest of mine.

So let me just piggyback on the last question about default and—because institutions are penalized as well, in addition to the students, and the things that they can do when they leave. So let me ask Ms. Emrey-Arras, do you believe that our institutions of higher education should play a role in better counseling students on these programs, or should it be up to Congress and the administration to increase the participation in the programs? And if so, what should they look like?

Ms. EMREY-ARRAS. We haven't looked specifically at the role of schools. However, we have looked at the role of servicers and the Department in educating borrowers about repayment options. And while I agree with Mr. Runcie that the takeup rate has increased in terms of income-based repayment options, there is still a very wide gap between those that are eligible and those that, in fact, participate.

And part of the challenge is that although there are in fact targeted campaigns, as Mr. Runcie mentioned, there is not an across-the-board notice to people when they enter repayment about these options. So that simply telling people when they start repaying what the options are is not happening across the board. And that needs to be done.

Ms. ADAMS. Thank you.

Mr. Runcie, if you could—what's your response to the institutions of higher education and their role?

Mr. RUNCIE. Well, in terms of—so, yes. You know, the institutions, there is exit counseling and some institutions do a pretty fabulous job in terms of exit counseling where they make sure that the students understand the obligations and the consequences of defaulting.

You know, we also obviously, you know, are involved from a servicing standpoint. We reach out and we provide information. If you look at the cohort default rates for all schools, whether they're proprietary schools or private schools or HVCUs, those cohort default rates have all dropped about 20 percent within the last two cohorts, which is a tremendous, tremendous reduction.

So whether it's the schools or the Department of Education, you know, there has been a noticeable impact in terms of the reduction in the cohort default rates.

Ms. ADAMS. Okay. Sounds like both should be involved.

But, Mr. Miller, since the 2008 economic downturn, many states have made significant cuts in funding for higher education. In North Carolina, our general assembly, and I was a part of that at one time, and our governor have made gutting higher education a regular activity. I didn't support that. But in my hometown of Greensboro, the University of North Carolina at Greensboro has eliminated, for example, 390 class sections or about six percent of its course offerings to offset a $4 million budget cut. So can you speak to the effect of a State disinvestment on increased college tuition costs and greater student loan debt, especially for low-income students?

Mr. MILLER. Essentially what we're seeing in this country now is a great cost shift where it used to be that States viewed public higher education as a public good they should be subsidizing and making affordable for all students. That is increasingly not the case. Essentially what's happening is that institutions such as the one as you described, their cost of providing the education is not really growing, and they're probably keeping it level.

Instead, all that's happening is the State is pulling money out and asking students to make up the difference themselves. And the effect of this essentially is you're making students borrow. And even worse, you're increasing the risk of trying college for low-income people.

To get back to your question about default rates, essentially this is what we're seeing, that a lot of our defaults are coming from borrowers who try college for maybe a semester or two and they drop out. A study from the Association of Community College Trustees found that most borrowers in defaults from Iowa community colleges owed a little bit under $5,000. And so essentially what we've done is we've slashed State funding, raised tuition, made college almost like a lottery ticket for students, where if they graduate, they'll probably repay. And if they drop out, they will find themselves in dire financial straits.

Ms. ADAMS. Oh. Okay.Thank you very much. I'm about out of time. Madam Chair I yield back.

Ms. FOXX. Thank you.

Mr. Carter, you're recognized for 5 minutes.

Mr. CARTER. Thank you, Madam Chair. And thank all of you for being here.

Ms. Tighe, let me start with you if I could. You're the inspector general of the Department of Education. How many investigations do you conduct on FSA?

Ms. TIGHE. We do a number of investigations related to the programs and operations of FSA. But as far as FSA employees, not that many.

Mr. CARTER. Okay. And I'm more concerned about the operations than I am——

Ms. TIGHE. I don't have the numbers, and I can get back to you on specifics. But it's a good part. We do annually about 250 to 300 investigations we have open. I imagine probably over half of those relate to FSA programs and operations. That's my guess, and I will be happy to give you specific numbers later.

Mr. CARTER. Okay. It's my understanding that there are four different areas that FSA is obligated to. Do you know if they're meeting their obligations in those four areas that are outlined in the statutes?

Ms. TIGHE. Well, I mean, we have, as I've testified, concerns, particularly over their management, their oversight of their—the various participants in their programs, and also in the management of their regular day-to-day activities. As far as the program participants where we see our greatest risk of fraud, one of areas we've highlighted in the last few years is our still growing problem of fraud rings. These are fake students who prey upon our distance education programs and particularly in our low-cost community colleges pretending to be students signing up for classes and getting disbursements of Federal student aid.

We did a report to FSA a few years ago with a number of recommendations that FSA do some system enhancements and other things to address this problem. FSA has taken some steps, but we're still seeing the problem grow.

Mr. CARTER. Okay. What can we do? What can we do in this committee, what can we do in Congress, to help you with that?

Ms. TIGHE. I think one of the areas that actually is within your all's responsibility, one of the issues that drives the costs are the cost of attendance. I think there's a statutory requirements related to that. We need to be looking at the difference—is all the money that you need when you go to a brick and mortar school and you have to have room and board the same that you need if you already have a job and a house and you're doing an online program from home. Do you need the same amount of money disbursed to you? Because if we can reduce the amount of money that goes out that is not needed, first of all, you reduce the debt, but you also reduce the attractiveness of the programs for fraudsters.

Mr. CARTER. Okay. Mr. Runcie, let me ask you. It appears that a lot of the problems that we see in the student loan industry is being laid at—the blame is being laid on the servicers. But aren't you in charge of the servicers? I mean, don't you have direct responsibility for that?

Mr. RUNCIE. Certainly I have and we have direct responsibility for that. But again, you know, what we're talking about are a number of findings, and they're issues that we continue to address and we've done—and I think throughout the course of this testimony I've highlighted some things that we've done to address that.

Mr. CARTER. But it seems to me all I'm seeing here is finger pointing. And, look, you know, this is a serious problem. Now, unlike my colleague, I'm not a Millennial, but I'm an employer. And I see students coming out—I'm a pharmacist. And I see pharmacy students coming out with $150,000, $200,000 in student debt. And I see them coming out and they tell me: Well, my goal is to have it paid off in 6 years. Six years. And that's good if they can do that. But can you imagine? I mean, what are we doing? What are we doing to help with this situation?

Mr. RUNCIE. Well, Congressman Carter, I think the overall statutory environment—you know, there are statutory limits. And some of those limits are high. We don't control some of the policies that allow for students to get the types of debt that they sometimes incur. What we've tried to do is through GE, CDRs, and other accountability metrics make sure that institutions don't prey upon students by loading them up with debt with no ability to get a job they couldn't manage those debts.

Mr. CARTER. And I understand that. But I'm a little bit frustrated by the finger pointing here, I'll tell you. Ultimately the responsibility lies with you guys, and you have to make sure that the servicers are doing their part.

Mr. RUNCIE. Absolutely.

Mr. CARTER. Thank you, Madam Chair. I yield back.

Ms. FOXX. Thank you, Mr. Carter.

Mr. Clay, you're recognized for 5 minutes.

Mr. CLAY. Thank you, Madam Chair. And thank you all for being here today.

This year President Obama issued an executive order that sets forth a student aid bill of rights. This included specific directives to agencies to increase protections for student loan borrowers.

Mr. Runcie, can you briefly describe the specific rights the administration believes students should have.

Mr. RUNCIE. Yes. So some of the principles, making sure that students have access to financial aid, that they are not harmed, and that, you know, we give them the tools to make sure that they can repay their obligations. Those are some of the general points. But under that there were certain specifics around making sure that there's common branding, that students can make complaints. So we're putting together a comprehensive complaint system so if students and borrowers have complaints we can log them, we can track them, and we can be responsive and use those to make sure that we make changes to benefit students and borrowers. So there's a litany of different things that are in there. A lot of those will be probably addressed as we go through our recompete process and through some of the outreach that we plan on doing.

Another thing was sort of transparency and providing awareness. And, you know, we've already had some targeted email campaigns with notifications to students and borrowers. So we're looking to get more information out to them so that they can make better decisions.

Mr. CLAY. And the administration has also proposed critical improvements to Federal student aid that requires statutory changes. And that means it's up to Congress to act. For example, the admin-

istration has proposed eliminating the tax liability for certain discharged student debt.

Mr. Runcie, can you tell us why this proposal is important?

Mr. RUNCIE. Yeah. It's important because, you know, if we eliminate—depending on how much debt we're talking about, it could be a substantial burden, economic burden. So, you know, let's say, for instance, someone had a situation where they were falsely misled, took out loans, and eventually those loans were discharged. It would be very difficult to accept that someone would get a large tax bill, you know, after the fact.

And so, you know, it's important so that we can actually produce a real make hold. It wouldn't be a real make hold if you had a large tax obligation at the end.

Mr. CLAY. And statutory changes are required to implement this proposal.

Mr. RUNCIE. Yes. That's right.

Mr. CLAY. And Congress has not enacted these changes yet. Have they?

Mr. RUNCIE. No. Not as far as I know.

Mr. CLAY. And the administration has also proposed statutory changes to create stronger protection for student and borrowers from the predatory practices of some student loan assistance companies. For example, some firms charge high fees for services that students can access for free from government Web sites. And, Mr. Runcie, Congress has not enacted these proposed changes to protect borrowers from such predatory practices. Has it?

Mr. RUNCIE. No.

Mr. CLAY. And so we must act too and protect these borrowers from some of these practices. You know, and I listen to my colleague, Mr. Carter, talk about what you all are doing. But I also realize too that at the State level budgets are strained, State budgets are strained, which means less money for these colleges. And it also means that they have to raise fees in order to sustain.

And does anyone on the panel have any opinions about the actual cost of going to school now and what maybe we can do to kind of tamp that down? Mr. Miller.

Mr. MILLER. Yeah, I mean, absolutely. That's the biggest problem is that by the time FSA gets to the borrower, they've already picked up the loan and the underlying conditions have already occurred to put them in a bad spot. I mean, I think our biggest problem is right now, the Federal Government is handing out a lot of dollars, and it's doing its part to help support higher education. It doesn't demand anything from States or institutions about what it does.

And so it says it's okay to a State to say: We're going to slash all our money and charge a maximum Pell recipient, the lowest income person in college, thousands of dollars. There are single moms out there who might be walking away with $57,000 in loan debt because ther's nothing from the Federal Government to ask that schools and—I'm sorry. Schools, institutions, and States do their part. And it's a problem. The Federal Government cannot unilaterally achieve affordability.

Mr. CLAY. And the ultimate impact is that it puts college out of reach for low and moderate income students.

Mr. MILLER. Correct. It puts it out of reach and it also makes it much riskier for the people who try it and it doesn't work out.

Mr. CLAY. Thank you. I yield back, Madam Chair.

Ms. FOXX. Thank you very much.

Mr. Curbelo, you're recognized for 5 minutes.

Mr. CURBELO. Thank you, Madam Chairman. And I thank both the committee chairmen and all the witnesses for this wonderful opportunity to discuss this important issue. I'll just say briefly before my questions that we must do more to make sure that young people have all of the information they need to make rational choices before taking out a loan, before making a decision on what their path in higher ed should be. I get calls and I have encounters all the time with young people who are frustrated by this system and who are, quite frankly, trapped in this system.

Ms. Emrey-Arras, I want to ask you, your testimony mentions FSA has not clarified how services should apply overpayments and underpayments—servicers, overpayments and underpayments to student loan balances. And FSA is now working with CFPB to establish a consistent approach to disseminate to servicers. But last month CFPB released a report saying servicers are not appropriately applying underpayments. Where do you see FSA's responsibility for ensuring payments are applied correctly?

Ms. EMREY-ARRAS. We believe that FSA needs to instruct servicers on how to officially apply underpayments and overpayments. They're operating in a vacuum right now. Some do it one way, some do it another way. And borrowers are treated differently. So we think the responsibility lies on FSA to come up with consistent guidance to have it be one single program.

Mr. CURBELO. Mr. Runcie, would you like to respond to that?

Mr. RUNCIE. I agree with that. And what we want to do is if we're going to make it uniform and create a standard, we want to make sure that we have best practices and the best information. So we're working to make sure we get it right when we put it out there.

Mr. CURBELO. Thank you.

And, Mr. Runcie, I want to ask you about heightened cash monitoring. Could you discuss briefly what the standards are for putting institutions under this type of a program, either HCM1 or HCM2. And also what institutions can do to be removed from this status once it's been applied by the Department?

Mr. RUNCIE. Yeah. It varies. You know, they are put on for a number of reasons. But ultimately, you know, there's a issue that needs to be resolved or potentially, you know, students and the Federal taxpayer may need to be protected. So it gives us an additional level of monitoring so we could actually monitor enrollment and cash flows and things like that.

Mr. CURBELO. But what specifically can trigger that decision to go into an HCM1 or an HCM2?

Mr. RUNCIE. It could be some financial—for instance, maybe there's a delay with their financial statements. There's an issue with issuing their financial statements that would trigger, you know, putting them on, you know, heightened cash monitoring. It could be something in a program review that comes out that we, you know, about the way they deal with, you know, return of Title

IV. It could be a number of different things. And once it's triggered, you know, there's a heightened cash monitoring.

Mr. CURBELO. So it's probably fair to say that the Department has fairly broad discretion in terms of when to apply heightened cash management?

Mr. RUNCIE. I think that's right.

Mr. CURBELO. Okay. By the way, Mr. Runcie, I'm not sure if you're aware, but there's a education leader by your last name in South Florida who is very well regarded in that community.

Mr. RUNCIE. I won't disassociate myself from my—he's my borrower.

Mr. CURBELO. Thank you very much for being here today.

Madam Chair, I yield back.

Ms. FOXX. Thank you very much.

Mr. Courtney, you're recognized for 5 minutes.

Mr. COURTNEY. Thank you, Madam Chairman. And thank you to the witnesses.

And Mr. Draeger, again, I always appreciate hearing your input. Your folks on the ground, you know, are really right there at the front trenches sort of dealing with this crisis of higher ed affordability. And the input, I think, is always really appreciated.

I want to again just sort of underscore one point that you made which is that the FSA actually did a very good job in terms of implementing the direct student loan program. And I don't think that for those who maybe don't follow this stuff like a box score like some of us, I mean, that was a huge transformation of the student loan program where, again, we eliminated the loan origination wasteful spending that existed in the old system.

And as Mr. Miller pointed out, the savings that was generated for that we were able to plow back into Pell to the tune of about I think it was $36 or $38 billion. And they actually did a pretty good job in terms of making that work. And, you know, I would just note that that didn't happen, though, just because of FSA. It's because Congress acted. We passed the Student Aid and Fiscal Responsibility Act as part of the budget reconciliation process with the Affordable Care Act. But we have to be a partner in terms of trying to help solve this problem. You know, the overhang of $1 trillion of student loan debt which is being carried by college graduates right now is something that Congress can actually do something.

When you look at the interest rates, these legacy loans that were written 10 years ago, 15 years ago in terms of the private student loans and compare them to what's out there for consumer credit in terms of, you know, 30-year mortgages or credit cards, I mean, it's outrageous that people are still repaying loans at six, seven, eight, sometimes nine and ten percent in the low interest environment that we're in today.

I just checked for SNCs this morning. The Treasury yield rate is 2.16 percent. So the government, is only paying 2.16 percent to borrower. But it's still receiving—government, you know, loans, public loans, at a far higher interest rate.

We have a bill, H.R. 1484, the Bank on Students Emergency Student Loan Act which would allow people to refinance down their high interest rate loans to 3.8 percent. We have 184—excuse me,

181 cosponsors in the House and yet the majority just refuses to move forward on this measure. And, yes, there will be a loss of revenue to the government in terms of allowing people to pay a lower rate of interest than what they're paying right now.

But I would argue that the purpose of the Stafford Student Loan Program was not to generate revenue to the Federal Government. And, frankly, that's what the powers that be in the House are clinging to. And that's why this bill so far, in any case, has not moved forward.

But CBO has told us that it will save conservatively about 50 to $60 billion in repayment costs to people who are carrying these high interest loans.

Mr. COURTNEY. And the Pew Research institute showed us the damage that's doing to America's society. People are delaying getting married. They are delaying having kids. They are delaying buying houses because they are carrying these high-interest rate rate loans which again, in every other sector of the economy, people can write down those kinds of rates. We do it with home mortgages. We do it with even credit cards. And yet, people are trapped in student loans. And Congress, frankly, has the key to open the door to fix that.

So in any case, I'm going to get off my soapbox here a little bit because—again, I appreciate those comments on the direct student loan program.

On gainful employment, I just want to make sure I understood. You seemed to suggest that after that back and forth which sounded pretty rough, that you sort of have found some equilibrium in terms of, you know, the reporting requirements?

Mr. DRAEGER. Schools are finally—we're finally given a tool 10 weeks after the reporting deadline that allowed them to see whether there were any additional conflicting data. So after some of the back and forth with the Department, threats of administrative capability, schools were eventually given the tool to figure out whether they were in compliance.

Mr. COURTNEY. Well, I'm glad to hear that. And again, I, you know, feel your pain because I know it was probably pretty onerous. But again, I would just sort of say from this side of the witness table, you know, when we are talking about Title IV which is I think $128 billion was the number that was tossed out there every year, I mean, frankly, I think the taxpayers should know that it is being used in a productive manner. And the gainful employment rules, in my opinion, are just, frankly, responsible governance in terms of saying that people who get benefit from this, which are some of these higher Ed institutions that are in the headlines today, they shouldn't be part of the program. And the only way we are going to learn that is by having measurements, accountability which the gainful employment program was designed to do.

So, you know, I thank your members for their, you know, persistence in terms of working that issue through. And with that I yield back, Madam Chairman.

Ms. FOXX. Thank you very much. Mr. Connelly, you are recognized.

Mr. CONNOLLY. Thank you, Madam Chairman. I thank you for being so gracious. Mr. Runcie, you are aware of the fact that we had a hearing yesterday on especially the deployment, or lack thereof, of IT in the Department of Education, especially with respect to student loans.

Mr. RUNCIE. Yes, sir.

Mr. CONNOLLY. And part of Ms. Tighe's testimony involved the fact that some contractors, subcontractors with the Department did not allow her office access because they were afraid, given the fact that they had private clients as well as Department of Education clients, that the one could compromise the other. Well, okay, but we have got to be worried about the fact that a lot of our data involving the public sector is in their hands, and the IG has to have access to it, and frankly, so do you. Have you looked into that issue?

Mr. RUNCIE. Yes, I was very much a part of that process. We did——

Mr. CONNOLLY. You don't mean by that preventing Ms. Tighe from action?

Mr. RUNCIE. No, no, no. Facilitating——

Mr. CONNOLLY. Right, right.

Mr. RUNCIE. Trying to facilitate the process. As a matter of fact, Ms. Tighe, myself, the Department, OCIO, the prime, subcontractor, our contracting officer, we put a maximum amount of effort and pressure on both the prime and the subcontractor to get access to the information that the Inspector General required.

Ultimately, we didn't have a contractual mechanism to get, I guess in this particular instance, the contract between the prime and the sub. There were other issues too, in terms of the comprehensive nature of the user IDs that were provided or were not provided. So, you know, so at the end of the day, I was just as disappointed as I think the Inspector General was, but we didn't have a vehicle to make them provide us the information.

Mr. CONNOLLY. Well, let me just say, there needs to be a contractual vehicle. I'm sorry, Ms. Tighe.

Ms. TIGHE. Yes, I think the vehicle is a contractual vehicle that would allow audit access. I mean, the real part of the problem, maybe even more than our access, is the Department, or FSA has a contractor operating in a major system and it has absolutely no visibility into the IT security of that system. That's the problem.

Mr. CONNOLLY. I think that you're absolutely right, Ms. Tighe, and that's the problem, Mr. Runcie. God forbid, but the data on 58 million folks who have student loans or had student loans, let's, in theory, say in the hands of the private sector, and they don't allow us access to it, and that gets compromised, you know, that's more than an uncomfortable position for you and your colleagues. And so that's why this is important. It's not just something nice to do, or following protocol. It's essential if we are going to ensure that we have security with respect to our database, our database. So I think that's got to be addressed.

One final question. Also what came up yesterday was the history of why FSA is a PBO because we had a lot of frustration over why can't you access this, and why can't you access that for the CIO. Well, because Congress by statute created FSA as a PBO. Are we

going to take a fresh look at that as to whether that still makes sense, that's 1997 legislation, and Madam Chairman, once Mr. Runcie answers, I will, as promised, yield back.

Mr. RUNCIE. So the FITARA, and the PBO, they are not mutually exclusive. All right, so the Department-level OCIO can have visibility, a level of control, and you know, be a part of the investment management and project management process that we have for our IT infrastructure. We have worked with the Department CIO and put together a plan that was submitted to OMB where he would have exactly that. And I'm not sure what the status is, but my understanding is it is close to being approved. That will not undermine our flexibility as a PBO.

I think as a PBO, given all the changes both regulatory, statutory, and administrative initiatives, we need the flexibilities to be able to respond to all of those changes within short windows. But it does not exclude FITARA.

Mr. CONNOLLY. It better not.

Mr. RUNCIE. I hear you loud and clear.

Ms. FOXX. The gentleman yields back.

Mr. CONNOLLY. I do.

Ms. FOXX. Thank you. It is now my turn. And as I indicated at the beginning of this to a couple of our witnesses, there's so much that we need to get out and so little time.

Mr. Runcie, I just want to be clear on something that has been said and alluded to. Ms. Tighe indicated that one of the things that can be done is that we not allow students to borrow more money than they actually need for their college. However, it's my understanding that institutions aren't allowed to stop students from borrowing money they don't need, and if they try to stop them, or take too much time trying to counsel them, the school hears about it from you, and tells them to stop doing that. Is that correct?

Mr. RUNCIE. Well, I mean, there are statutory limits and what the student is eligible for, you know, there is an eligibility amount that they receive. And if they want to, my understanding is if they want to use that full amount, you know, in most cases they will have access to it. There is this concept of professional judgment, but that's very specific, and it doesn't address the issue that the institutions face, what we're constrained with from our regulatory framework.

Ms. FOXX. Well, I have heard that from financial aid folks myself that they feel very constrained to be able to give that advice to students.

Mr. Draeger, in your testimony, you discussed the troubling rollout of gainful employment reporting requirements and how schools did not have the necessary guidance in order to properly report their data. Even though FSA acknowledged they didn't deliver guidance in an appropriate timeframe, they did not provide any deadline extensions to schools trying to catch up. You said schools are now starting to get responses, but do you have any explanation for why they haven't until now? Have they all heard back and been removed from a limbo not of their own making?

Mr. DRAEGER. It's after letters have gone out to these schools accusing them of noncompliance even though it looked to be just data conflicts. It's not clear to us that any widespread communication

has gone back from FSA to schools letting them know that everything is in the clear. I understand that as of last night, some communications were going back out to these schools saying that they had satisfied the data conflict requirements.

Ms. FOXX. You think the fact that we were having this hearing today might have had anything to do with the fact that they got an answer last night at 7 p.m.?

Mr. DRAEGER. I think it makes a strong case that accountability is needed outside of FSA's own self-assessments.

Ms. FOXX. Well, I would tend to agree with you.

Mr. Runcie, the FSA is charged with enforcing reporting requirements and timely monitoring of institutions. You say that you have facts and we are just looking at isolated incidents. But there's one case where you took 7 years to complete a program review for which no fines were imposed for an additional 2 years. Then you imposed a fine of $10,000 for a mistake by a school in categorizing a burglary as a larceny. Based on these examples alone, it's clear to me that it's unacceptable for an organization that has such vast responsibility to make such arbitrary decisions.

I have some questions I'm going to submit to you because we have so little time today, and I will be expecting a very prompt response from you.

Ms. FOXX. But I think that based on the 35 outstanding recommendations from the IG, multiple findings of deficiencies by GAO, combined with the egregious insufficiencies we have heard today, I'm extremely concerned about FSA's ability to serve students, borrowers, and taxpayers as well. And you have been given the high honor, in my opinion, of being a performance-based organization, and you have not lived up to that right that has been given to you.

And I would suggest to you that if you come to us and say, you need more money to grow your infrastructure, that before you ask for more money, you'd better show this Congress that you have made some progress in straightening out your operation. Because we expect students—you also said there have been no negative impact to students and families and comment, after comment, after comment in this room and in reports have shown negative impact.

You get my ire up and the ire of a lot of members when you start messing with our constituents.

Thank you, I yield back.

Mr. Jeffries, you are recognized for 5 minutes.

Mr. JEFFRIES. Thank you, Madam Chair. Mr. Runcie, you testified earlier today, I believe, that there were approximately $2 billion in improper financial aid payments. Is that correct?

Mr. RUNCIE. Yeah, the improper payment calculation yielded about $2 billion, but there weren't $2 billion in payments. It was an estimation.

Mr. JEFFRIES. And is that an estimation on an annual basis or is that an aggregate?

Mr. RUNCIE. That's an annual basis, or it was for 2015.

Mr. JEFFRIES. Can you explain the general nature of these improper payments, or improper allocations?

Mr. RUNCIE. Yeah, so first of all, a third of the improper payments could be—they could be underpayments, as well. So it's just

that it's not accurate. Right? So, for instance, you know, if the information that was put in a FAFSA form was wrong, and so a student received more or less, you know, in the financial package, that would be considered an improper payment. Right? So there are instances like that, and so, you know, when we use a methodology to try to figure out how much of that is out there, we come up with the $2 billion.

Mr. JEFFRIES. Now, what if any corrective actions have you taken to sort of address this improper payment situation?

Mr. RUNCIE. Well, well, we have taken some of the recommendations from the IG and GAO in terms of putting in systems, edits. We have verification procedures that we put out there. So there have been a number of things that have helped the income. The IRS data retrieval has increased our ability to address improper payments because there's less error for inaccuracy, less room for inaccuracy, so there's some things that we have done to try to address that.

Mr. JEFFRIES. Now, Ms. Tighe, you noted in your testimony, I believe, that there was an increasing risk of people attempting to fraudulently obtain Federal Student Aid in the context of distance education programs. Is that correct?

Ms. TIGHE. That's correct.

Mr. JEFFRIES. And a distance education program would be one where activities is conducted either exclusively or primarily over the Internet. Is that right?

Ms. TIGHE. Yes, that's right.

Mr. JEFFRIES. In your view, what makes these particular programs susceptible to an increased risk of fraud?

Ms. TIGHE. Well, because all of the transactions are done online. And so you don't know that the person who has signed up for classes and applied for Federal Student Aid is intending—they can misrepresent income. They can misrepresent their identity. They can misrepresent their graduation status from high school, and there's really no other way to check that unless you go through some other more unusual verification processes with the students.

But you have the ability—fraudsters do, of either borrowing, or stealing identities, signing up for class, applying for Federal student aid, getting disbursements of aid, and then walking away.

Mr. JEFFRIES. Are there any steps that you would recommend that Congress take or consider in combating this fraud problem?

Ms. TIGHE. I think a couple of recommendations I would address to you; one I talked about earlier which relates to cost of attendance. Do we need to have the same amount of money disbursed in distance Ed programs which typically are, you know, working parents sitting at home, already own a house, and you are not attending a brick-and-mortar school. Costs may be different.

The second is, do we need to disburse the money at the beginning of a semester term all at once? Can we do it over the course of a semester or some other term? And that makes the fraud less likely to happen if there is less money up front to get.

Mr. JEFFRIES. And lastly, I think you also expressed concern with the sort of sudden school closure phenomenon. Is that right?

Ms. TIGHE. Yeah, we did an inspection a few years ago to look at, essentially, at FSA's readiness to deal with school closures.

Mr. JEFFRIES. And what if any steps, I guess the Corinthian College example would be——

Ms. TIGHE. Yeah.

Mr. JEFFRIES. —a prominent case of the consequences of a sudden school closure both on the student side and on the taxpayer side. You know, is there anything that you would recommend that Congress do in strengthening our ability to address this situation?

Ms. TIGHE. Well, I don't know. I mean, I think FSA, our inspection certainly pointed to some areas that they needed to work on. They had a group sort of that I think Mr. Runcie mentioned, this publicly traded large school working group that was supposed to be keeping abreast of these issues. It hadn't met in the 3 years before it was created and then didn't meet regularly for 3 years. They need to do a better job of gathering financial information, and particularly from outside sources, and not just within FSA. I think for Congress, I would have to think about that.

Mr. JEFFRIES. Thank you, Madam Chair. I yield back.

Ms. FOXX. Thank you very much. Mr. Hinojosa, you are recognized for any brief closing comments you would like to make.

Mr. HINOJOSA. Thank you very much, Chairman Foxx. I want to make a statement and then a closing remark.

The congressional intent was for FSA to use best business practices and the members of both of these committees have intended to listen and learn to see how we can address the poor performance of servicers. And being that the servicers failed in their performance, why didn't FSA replace the prime contractor Accenture, and the subcontractor, TSYS. I am going to request, respectfully request, that Mr. Runcie, and Mrs. Tighe give members of these two committees in writing, within 30 days, why the servicers' contracts were not canceled, and new servicers given the Federal contract, just like we do in business.

Mr. HINOJOSA. I was president of a large company and I remember having contracts with the Department of Defense to supply food for them. And many who did not meet the requirements were removed and a new provider given the contract.

It seems to me that something as big as we are talking about here with $1 trillion in debt, and the amounts that were taken by the savings of getting rid of the middleman that were the lenders of student college loans and replaced by the Federal Government, where I, as chairman, was told that over a 10-year period we would save $96 billion, and with that, we took apart and put it into Pell grants. It seems to me that that should have been an action that should have been taken immediately, not to wait for us to have this kind of a hearing and see the weaknesses of the performance and that those people were not removed immediately.

So in closing, let me say that I want to thank our distinguished panel for being here this morning. Today we heard those concerns, but we must not forget that it plays a vitally important role in expanding college access and affordability.

Moving forward, I'm confident that FSA will continue to strengthen its management systems and performance in order to best serve our student borrowers. And with that I yield back, Madam Chair.

Ms. FOXX. Thank you very much. Mr. Meadows, I would like to recognize you for closing comments.

Mr. MEADOWS. Thank you, Madam Chair, and thank you for your leadership on a number of areas that relate to higher education. It's certainly not only this hearing, but it's been recognized time and time again, your commitment to students, and as you so accurately put it, our constituents. So I thank you for your leadership.

Instead of doing a closing statement, I'm going to hopefully ask for a few things to clarify and wrap up some of this without going into a second line of questioning. But one of the big areas that we did not address that Ms. Tighe was a part of yesterday, was the whole cyber aspect because we had Dr. Harris here yesterday. And one of the questions that came up during that particular hearing made the potential liability from a cyber standpoint just frightening, Mr. Runcie. And when we asked Dr. Harris about some of the dashboard things that are on the—what the Issa-Connolly bill, or as Mr. Connolly would put it, the Connolly-Issa bill, it's—as we look at that particular issue, Dr. Harris couldn't answer one thing and he said that he didn't know, that we would have to ask FSA. And so you're here today so I'm going to ask you very quickly.

Can you explain to these committees why there is no PIV cards to protect from an encryption standpoint to protect this some 139 million Social Security, unique Social Security numbers that are there; why the very basic of encryption is not employed? Because as your Chief Information Officer, he couldn't answer it. So can you answer that?

Mr. RUNCIE. Yeah. Dr. Harris is the Department's CIO. We have our own separate CIO who has 30 years——

Mr. MEADOWS. But he said this was your call.

Mr. RUNCIE. Oh.

Mr. MEADOWS. He couldn't even look. That's the reason I'm asking you is because he said he couldn't look behind the curtain; that you're the only one that could look behind the curtain, so I'm asking you.

Mr. RUNCIE. So we've had two-factor authentication for some time. Right? It was level 3.

Mr. MEADOWS. Yeah, but you went backwards. I was here yesterday. I don't want to get into all of that. I guess let me ask you this question more specifically. When can we count on PIV cards being there, the basic encryption to protect all of these student's Social Security numbers? When can we count on that from your agency?

Mr. RUNCIE. By second quarter.

Mr. MEADOWS. Okay, by second quarter of next year? I mean, let's make sure that we're talking about—I mean, second quarter 10 years from now is a tough——

Mr. RUNCIE. Our target is the end of December, but there may be some constraints that move us into the next quarter. So that's why I meant that quarter.

Mr. MEADOWS. All right.

Mr. RUNCIE. January through March.

Mr. MEADOWS. All right, so in two quarters you will have it done. All right. So let me go to one other thing that a lot of people were excited about, this whole REPAY thing that here in just a few weeks, I guess, is going to be there.

Do all the service providers, do they have what they need to make the best decisions and all of that, and to implement that, the contractors?

Mr. RUNCIE. Yes.

Mr. MEADOWS. And so you have been working on that as I understand for a while. Is that correct?

Mr. RUNCIE. Yes, REPAY, the delivery of REPAY. Yeah.

Mr. MEADOWS. And so dating back as far as as, I guess, from my records it showed that you had a proposed rule draft change contract change that went out in May of 2015, is that correct?

Mr. RUNCIE. That sounds right.

Mr. MEADOWS. And then a final contract change that went out in July of this year?

Mr. RUNCIE. I believe that's right.

Mr. MEADOWS. And so I'm a little confused, so help me with this. And I don't understand the process. But since the Secretary just put out the final rule on October the 30th, how did you send out those contract changes before a final rule was complete? I mean, was it just that we assumed that it was going to not change?

Mr. RUNCIE. I know that we provided guidance. Because of the window that we are talking about, it's obviously a tight timeframe, so if we waited until the last minute to give any sort of guidance or instruction——

Mr. MEADOWS. Well, but these aren't—these are contract changes which is a lot difference than guidance and so are you assuming that the rule that just became final was going to be the final rule? Because on October 30, the final rule, it wasn't exactly like the proposed rule. It actually changed.

Mr. RUNCIE. I will have to get back to you with a timeline.

Mr. MEADOWS. It sounds like we've got things backwards.

Mr. RUNCIE. Yeah, I can confirm the time line and get that back to you.

Mr. MEADOWS. I yield back. I thank the chairwoman for her patience.

Ms. FOXX. Thank you very much. This has been a very interesting hearing to me, a very revelatory hearing, and I want to thank Mr. Meadows for co-chairing this. And I want to thank the OGR staff and our staff for putting the hearing together.

There are a couple of things that have come up here that I think are important to point out. One is the issue of complexity. You know, I have been around in the Federal Government business for a long time. I was the director of an upward bound special services program at Appalachian State University. We dealt with financial aid, and very concerned, again, about what our students, what our students were getting in financial aid.

When we talked today about FSA's management of our broken financial aid system, I think it's important to remember that in 1990 there was only one forbearance option, and two repayment plans. In 2015, we have 13 forbearance options, 15 repayment plans, and the all new forgiveness programs.

It's clear, and Mr. Runcie, this is one area you and I agree on, you mentioned you have tremendous complexity to deal with. It's clear we have allowed the system to become far too complex to serve students well. I believe it is the life of bureaucrats to make

things complex. I think this administration has made things way too complex. And I think it's going to be up to us to look for ways to make the system less complex because it is clear, FSA cannot administer this program. And if you cannot administer the program, your servicers cannot administer.

And I agree with Mr. Carter. It appears that there is a lot of blame being foisted upon the servicers. That's not where the problem is, Mr. Runcie. The problem is with the leadership of the FSA.

If you gave clear guidelines to the servicers, if you did things in a timely fashion, we would not have this problem. And even the complexity you have generated could be gotten through. And there's no benefit to the servicers to not explain things fully to students. I have inquired about that. The only problem is, they don't have the guidance from you to be able to do it. And it's so complex even financial aid administrators don't understand it. That's not the way it should be. It's not the way it should be.

Again, you are harming the people you are supposed to be helping. And that has to stop. Again, I thank all of you for being here today. I thank you for revealing a lot of things that I think will be useful to us as we look to the reauthorization of the HEA and I appreciate the time that you've given us. This hearing is adjourned.

[Whereupon, at 11:36 a.m., the subcommittees were adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Mark Meadows Opening Statement

Today we gather to review the federal government's first "Performance-based organization" – the Office of Federal Student Aid.

The 1998 amendments to the Higher Education Act transformed FSA into a federal experiment – one that many don't realize is ongoing.

Driving this transformation was an idea: that innovation would be fostered by bringing private sector talent into government…giving that talent independence from the parent agency…providing generous compensation… and then holding that talent accountable.

Today's goal is simple: we're going to evaluate FSA's performance since it was granted these responsibilities and flexibilities.

There is no doubt that FSA is tasked with a far greater responsibility today than could ever HAVE been anticipated in 1998.

The federal student aid system is vast, complex, and growing.

In 1998, the *Free Application for Federal Student Aid®* was just being put onto the "World Wide Web." Today, FSA processes over 22 million applications annually - and 99% of applications are processed electronically.

In 1998, 3.8 million Pell Grants were awarded annually, costing $6.7 billion. Today, 8.3 million Pell Grants are awarded by FSA annually, costing $32 billion.

In 1998, FSA owned and managed $45 billion in Direct Loan outstanding principal – the other $150 billion was funded and owned by the public-private partners in the FFEL program. Today, FSA owns and manages *a staggering amount* - $1.18 trillion in federal assets.

While FSA's responsibility has increased dramatically, there has not been an increase in accountability.

Let's be clear - Congress has not done its part.

We created this thing, and then we walked away.

Congress has only called the FSA's Chief Operating Officer, the owner of the PBO, to testify <u>three times</u> since 2010.

This entire enterprise was set up for oversight, but in the halls of Congress we need to do better.

While I acknowledge Congress has to do its part, let's be clear - FSA is failing to live up to its side of deal as well.

One only need consider the Inspector General's recent *Management Challenges* report for evidence that FSA is failing to deliver.

Each challenge the IG flagged this time around was raised in last year's report as well. And, these are not insignificant challenges, but mission-critical areas FSA must manage effectively. These areas include:

- Improper Payment Reporting
- Oversight and Monitoring
- IT System Development and Implementation

I am concerned that FSA made sufficient progress to be removed from GAO's *High Risk* list in 2005, but is now backsliding.

And, I am doubly concerned about the culture being fostered by FSA. We will hear from school stakeholders today that "the working relationship with FSA has become

so strenuous that it is having adverse affects on students."

During the Committee's hearing yesterday, the Department received an F for its failure to effectively secure the personal information of millions of students across this country.

Today, I suspect Washington may receive an F for allowing the Office Federal Student Aid to expand into higher education. I'm not convinced it's been a healthy endeavor for students, parents, or taxpayers.

I look forward to hearing from our witnesses today and now turn to the Ranking Member.

November 18, 2015
9 a.m. – 2154 Rayburn
Ranking Member Gerald E. Connolly (VA-11)

Joint hearing hosted by the Oversight Subcommittee on Government Operations and the Education and Workforce Subcommittee on Higher Education & Workforce Training:
"Federal Student Aid: Performance-Based Organization Review"

Chairman Meadows, Chairman Foxx, and Ranking Member Hinojosa, I appreciate the opportunity for this joint subcommittee hearing to examine the Federal Student Aid program. The magnitude and scope of the program demands robust oversight to ensure it is not only acting as a good public steward for the more than $1 trillion in outstanding debt it manages but also serving the best interests of the 40 million students we are trying to help as they pursue their dreams of graduating from college and pursuing a career.

I look forward to hearing from today's panel on how we can strengthen program integrity and better inform borrowers. For example, in its most recent audit, the Inspector General discovered "significant weakness in the processes for performing program reviews" of schools participating in the Title IV loan programs. The IG noted that program reviews were not being conducted in accordance with FSA policy, and, in some cases, the IG found information lacking or reviewers having inadequate time to conduct these important reviews. These are basic metrics that must be met so that we can assess whether the schools are meeting performance standards for handling such a large volume of student loans. With respect to informing borrowers, I was stunned by the Government Accountability Office's findings that roughly one-third of the eligible student loan borrowers are ***not*** participating in an Income Based Repayment program. I understand the Department says steps have been taken to provide more information, but clearly this effort needs to be reviewed more carefully so that we don't have so many recent graduates and young professionals paying more than they need to be.

In addition, I want to follow up on a couple of issues raised during yesterday's Oversight Committee hearing on the Department of Education's information security shortcomings. First, the IG found user accounts, from inside federal employees and outside federal contractors, with excessive or unnecessary permissions and unauthorized access to data. In fact, one of the Department's IT subcontractors would not provide the necessary information to the IG to confirm that its other, non-federal customers did not have unauthorized access to the Department's data through a shared service. That is unacceptable, and I agreed to work with the Chairman of our Committee to send an inquiry to that subcontractor.

Further, as we reviewed the Department's approach to securing information, we hit upon this issue of FSA being a standalone Performance Based Organization (PBO), intentionally siloed from the rest of the Department. While that might have made sense in 1997, when the PBO structure was created, I think it's time to re-evaluate whether it's time to bring FSA back into the fold. For example, the Department's Chief Information Officer said yesterday that he doesn't have insight or control over some of the IT operations and decisions being made at FSA. Well, that runs counter to the intent of the Federal IT Acquisition Reform Act or FITARA, which I co-authored with the former Chairman of our Committee. Our bipartisan legislation aims to streamline and enhance authorities under the Department's CIO to improve transparency and accountability.

Before closing, Mr. Chairman, I want to encourage my colleagues to not lose sight of the forest for the trees. While it is important that we provide oversight of these management and structural issues, we must also look for ways to address the cost of college, whch is becoming increasingly unaffordable -- both the annual cost of tuition and the amount of debt students are taking on to finance their education. A recent report by the Center for Budget and Policy Priorities found tuition has increased by an average of 29% when adjusted for inflation since the 2007-2008 schoolyear. In my home state of Virginia, tuition has increased by 36.2% or $2,895 dollars during that time. Compounding the challenge for students and their families, and driving the increased reliance on student loans, is the fact that those increases have come at the exact same time as reductions in state funding for higher education. Since the 2007-2008 schoolyear, state spending per student in Virginia dropped 24.5% or $1,870. It's no wonder that student loans have become the second largest class of consumer debt for Americans. As Congress begins to prepare to re-authorize the Higher Education Act, controlling these ballooning costs must be one of our chief priorities.

Foxx Statement: Hearing on "Federal Student Aid: Performance-Based Organization Review"

WASHINGTON, D.C. | November 18, 2015 - We all know the current federal financial aid system is broken. National student loan debt is at an all-time high, and a complex patchwork of grant, loan, and repayment programs has become so difficult to navigate that it often discourages individuals from pursuing a higher education. Students, families, and taxpayers deserve better. That's why simplifying and improving student aid remains a leading priority as Congress continues its work to strengthen higher education.

Addressing the challenges within the federal financial aid system is an important part of that effort – and one we have discussed extensively in our subcommittee – but that's not why we are here today. Instead, we are here to examine the agency tasked with managing the system: the Office of Federal Student Aid, or FSA. The agency is responsible for administering every federal loan, grant, work-study, and repayment program under Title IV of the Higher Education Act.

In other words, FSA is in charge of delivering billions of taxpayer dollars to millions of eligible students, as well as managing more than a trillion dollars of outstanding student loan debt. Additionally, the agency is expected to provide guidance about financial aid policies to thousands of colleges and universities and has the authority to revoke an institution's ability to participate in the aid programs should they not comply with that guidance. Needless to say, FSA plays an enormous role in the higher education system and has the ability to help or disrupt the lives of students.

In the 1990s, the Government Accountability Office designated FSA as a "High Risk" agency with "long-standing management problems." To improve the efficiency and effectiveness of FSA, and to mitigate the mishandling of limited resources moving forward, Congress in 1998 converted the agency to a performance-based organization that would have to meet specific objectives under the Higher Education Act. Nearly two decades and trillions of dollars later, many would argue FSA is not achieving the intended results. It's our job to find out why and identify opportunities for reform to ensure taxpayer dollars are well spent and students are well served.

Numerous reports reveal FSA is rife with inefficiencies that have led to a lack of communication with students, institutions, and loan servicers; improper payments; inaccurate reporting of data; failure to ensure borrowers are aware of the repayment options available to them; mismanagement of contractors and vendors; and poor customer service.

After the last comprehensive review of the agency in 2008, the Department of Education's Office of Inspector General found FSA has failed to meet its responsibility as a performance-based organization, such as developing a five-year performance plan with external stakeholders and publishing annual performance reviews for the agency's top executives. Due to these and other failures, the Inspector General noted that FSA "has been unable to realize the expected benefits of the initiatives and has hindered its progress in meeting the requirements of the [Higher Education Act]."

This is about more than checking boxes. When FSA fails to fulfill its responsibilities, it jeopardizes our investment in students. We need to demand better. As Congress works to strengthen higher education,

we must ensure the Office of Federal Student Aid is serving the best interests of students, families, and taxpayers. I look forward to hearing from our witnesses about how to achieve just that. Thank you for joining us, and thank you, again, Chairman Meadows, for working with us on this important hearing.

Subcommittee on Higher Education and Workforce Training, and the Oversight and Government Reform Subcommittee on Government Operations, Joint hearing, "Federal Student Aid: Performance-Based Organization Review"

9:00 a.m. - RHOB 2154

THANK YOU, CHAIRMAN MEADOWS, CHAIRWOMAN FOXX, AND RANKING MEMBER CONNOLLY FOR HOLDING THIS HEARING.

TODAY'S JOINT COMMITTEE HEARING WILL EXAM THE OFFICE OF FEDERAL STUDENT AID AS A PERFORMANCE-BASED ORGANIZATION (PBO) AND THE MANAGEMENT AND ADMINISTRATION OF THESE PROGRAMS.

I WANT TO WELCOME OUR DISTINGUISHED PANEL OF WITNESSES FOR JOINING US THIS MORNING TO SHARE THEIR VIEWS ON HOW THE FEDERAL GOVERNMENT CAN CONTINUE TO BEST SERVE OUR STUDENTS.

AS WE HAVE HEARD THIS MORNING, THE OFFICE OF FEDERAL STUDENT AID (FSA) BECAME A PBO AS A PART OF THE 1998 REAUTHORIZATION OF THE HIGHER EDUCATION ACT AND WAS THE FIRST PBO ESTABLISHED BY CONGRESS TO MANAGE THE OPERATIONAL FUNCTIONS SUPPORTING FINANCIAL AID PROGRAMS. THIS MODEL WAS CRUCIAL FOR THE DEPARTMENT OF EDUCATION TO BE ABLE TO PROVIDE NECESSARY SERVICES TO OUR STUDENTS, AND TO ENSURE EFFICIENCY AND ACCOUNTABILITY.

WHILE THE FOCUS OF TODAY'S JOINT HEARING IS ON FSA'S PERFORMANCE AS A PBO, SOME OF MY COLLEAGUES MAY ATTEMPT TO DISCREDIT FSA AND ITS WORK IN SUCCESSFULLY TRANSITIONING TO THE DIRECT LOAN PROGRAM. IN MY VIEW, THE DEPARTMENT'S MOVE TO DIRECT LENDING IN 2010 CONTINUES TO PROVIDE STUDENTS WITH A STREAMLINED LOAN ORIGINATION SYSTEM, AND THE DEPARTMENT WITH BETTER OVERSIGHT AGAINST FRAUD, WASTE AND ABUSE.

LADIES AND GENTLEMEN, I MUST UNDERSCORE THAT WHILE THERE IS ALWAYS ROOM FOR IMPROVEMENT, I UNDERSTAND THAT FSA HAS BEEN WORKING TO ADDRESS AREAS OF IMPROVEMENT FOR QUITE SOME TIME.

FIRST, WE MUST REMEMBER THAT FSA IS THE LARGEST PROVIDER OF FINANCIAL AID FOR STUDENTS IN THE UNITED STATES. IN 2015, FSA DELIVERED APPROXIMATELY $128 BILLION IN FEDERAL STUDENT AID TO NEARLY 12 MILLION STUDENTS AT 6,100 INSTITUTIONS OF HIGHER EDUCATION.

SECOND, I AM ALSO AWARE THAT FSA HAS WORKED DILIGENTLY TO ENSURE THAT STUDENTS ARE RECEIVING THEIR FINANCIAL AID FUNDS IN A TIMELY MANNER SO THEY CAN PAY FOR THEIR EDUCATION AND BE READY ON THE FIRST DAY OF CLASSES.

THIRD, FSA IS RESPONSIBLE FOR MANAGING PROGRAMS THAT EASE THE BURDEN OF STUDENT LOAN DEBT FOR BORROWERS. FSA PLAYS A VITALLY IMPORTANT ROLE IN HELPING BORROWERS REPAY THEIR STUDENT LOANS THROUGH INCOME DRIVEN REPAYMENT PLANS.

AT THE SAME TIME, I MUST EXPRESS MY CONCERN REGARDING STUDENT LOAN SERVICERS. SEVERAL INVESTIGATIONS AND REPORTS, INCLUDING A REPORT ISSUED BY THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB) HAVE FOUND THAT FEDERAL STUDENT LOAN SERVICERS MAY NOT BE PROVIDING APPROPRIATE SERVICES, GUIDANCE, AND PROTECTIONS TO BORROWERS.

WITH THIS IN MIND, I APPLAUD THE OBAMA ADMINISTRATION FOR TAKING STEPS TO MAKE COLLEGE MORE AFFORDABLE FOR STUDENTS AND FAMILIES BY ISSUING A "STUDENTS AID BILL OF RIGHTS" TO GIVE EVERY BORROWER THE RIGHT TO AN AFFORDABLE REPAYMENT PLAN. FURTHERMORE, EVERY BORROWER HAS THE RIGHT TO QUALITY CUSTOMER SERVICE, RELIABLE INFORMATION AND FAIR TREATMENT.

ALONG THE SAME LINES, THE DEPARTMENTS OF EDUCATION, TREASURY, AND THE CONSUMER FINANCIAL PROTECTION BUREAU ISSUED JOINT PRINCIPLES ON STUDENT LOAN SERVICING IN SEPTEMBER OF THIS YEAR. THIS IS A POSITIVE STEP IN THE RIGHT DIRECTION.

IN CLOSING, I WISH TO REMIND MY COLLEAGUES THAT EVERY STUDENT REGARDLESS OF THEIR SOCIOECONOMIC STATUS HAS AN EQUAL OPPORTUNITY TO POSTSECONDARY EDUCATION.

AS YOU ARE AWARE, TUITION COSTS AND STUDENT LOAN DEBT HAVE RISEN EXPONENTIALLY, SURPASSING $1.2 TRILLION. AS MEMBERS OF THESE COMMITTEES, WE MUST DO ALL THAT WE CAN TO HELP BORROWS REPAY THEIR DEBT. A STUDENT'S CREDIT CAN BE DESTROYED IN A MOMENT.

WITH THAT, I LOOK FORWARD TO HEARING FROM OUR DISTINGUISHED GUESTS ON THESE MATTERS.

I YIELD BACK.

Responses by Mr. James W. Runcie
Chief Operating Officer
U.S. Department of Education

Questions from Chairman Jason Chaffetz
Committee on Oversight and Government Reform

Hearing: "Federal Student Aid: Performance Based Organization (PBO) Review"

1. **The Higher Education Act makes the Office of Federal Student Aid responsible for developing and maintaining a student financial assistance system that contains complete, accurate and timely data to ensure program integrity.**

   a. **As the person accountable for ensuring program integrity, please describe the process by which FSA considers, and ultimately controls, the price tag that is associated with changes FSA and the Department makes to the entitlement programs you administer.**

   The U.S. Department of Education (the Department) estimates both the program and administrative costs of all changes to programs administered by Federal Student Aid (FSA). As the FSA Chief Operating Officer, I am responsible for estimating and minimizing the administrative costs for program changes. I ensure that we implement changes in the most cost efficient manner through our change management and investment management processes. These processes utilize implementation best practices to control costs; below are some examples.

   - Provide input on draft legislation and policy that helps the government meet the objective of the environment change at the lowest possible cost.
   - Plan for incremental development for large implementations, reducing the risks and costs of a big-bang failure.
   - Establish a cross-functional implementation team early in the planning to ensure the planned solution accounts for all implementation tasks and risks, minimizing costly surprises later in the lifecycle.
   - Thoroughly define and detail requirements to vendors, thereby lowering the risks and costs of implementation.
   - Tightly manage those same requirements through implementation, avoiding costly scope creep.
   - Ensure thorough, detailed testing of the changes to avoid costly re-work later in the implementation cycle.

   The Department's Cost Estimation and Analysis Division (CEAD) is responsible for estimating the program costs associated with changes to programs administered by FSA. To do this, CEAD maintains a long-term model to estimate the federal costs of the various student loan programs.

The Department of Education's current model is the Student Loan Model (SLM). The SLM is used to prepare estimations of future costs and revenues of the federal postsecondary student loan programs. These cash flows from the SLM are required inputs for the Office of Management and Budget (OMB) Credit Subsidy Calculator, which, in turn, calculates the net present value of the SLM cash flows as a measure of the Federal Budget subsidy rate for the student loan programs. The SLM calculates student loan net cost estimates for loan cohorts where a cohort consists of the loans originated in a given budget (fiscal) year. Estimates are the result of calculation of the incomes and outlays for past, current and future loan cohorts for the full life of the loans. These calculations are based on factors, referred to as assumptions, such as interest rates and default rates.

For any proposed regulatory action, CEAD performs an impact analysis and uses the SLM to estimate budgetary impacts as necessary. These budgetary impacts are included in a Regulatory Impact Analysis prepared for the proposed rule.

b. Is FSA doing enough to protect taxpayers, or is the priority getting student aid funding out the door?

FSA isis dedicated to the goals of effectively delivering aid and minimizing our administrative costs and risks. Both are important to us. As discussed in our strategic plan and annual report, FSA has five strategic goals. Two of those goals are:

- Strategic Goal C: Develop efficient processes and effective capabilities that are among the best in the public and private sectors.
- Strategic Goal D: Ensure program integrity and safeguard taxpayers' interests.

FSA measures our success for Goal C using two unit cost metrics: aid delivery costs per application and loan servicing costs per borrower. FSA measures our success for Goal D using three metrics: Improper Payment Rate, Percentage of contract dollars competed by FSA, and Collection Rate. In Fiscal Year (FY) 2015, FSA successfully met our targets for all five of these metrics. You can read more about FSA's goals and results on StudentAid.gov at https://studentaid.ed.gov/sa/strategic-planning-and-reporting.

c. The FY16 budget was released contained a $21 billion upward re-estimate for the student loan programs- the largest ever recorded for federal credit programs. Who bears the cost of these upward re-estimates?

Federal credit programs are re-estimated annually. Upward re-estimates represent re-estimated program costs that are higher than the previous estimate. Per Section 504(f) of the Federal Credit Reform Act, permanent indefinite authority is provided for these re-estimates. Since 1995, the Department has recorded several upward and downward re-estimates in the Direct Loan program. A complete history of these re-estimates is available in the FY 2017 President's Budget Credit Supplement on pages 49-50.

The upward re-estimate as presented in the FY 2016 budget included a $9.3 billon modification that expanded the Pay As You Earn plan to more Direct Loan borrowers, allowing additional students to cap their student loan payments at 10 percent of their income.

d. **Given the increasing utilization of income-driven repayment plans by borrowers, are you projecting another upward re-estimate in FY17?**

Re-estimates, or changes in estimated program costs, may reflect any of a number of changes in observed or projected activity. Examples of such changes are: loan volume, the timing of borrowers entering repayment, default, prepayment, interest rates, and repayment plan selection. Recently, updates to the assumed take-up rates of income-driven repayment plans (i.e., repayment plan selection) have been a significant factor in the Department of Education's re-estimate for the Direct Loan program. Since income-driven repayment plans currently are estimated to cost more (as defined by the Credit Reform Act) than other available repayment plans, such as standard or graduated, an increase in take-up for income-driven plans will tend to result in an upward re-estimate. The FY 2017 President's Budget contains an upward re-estimate of $7.7 billion. While there are many components to this re-estimate, a further adjustment upward in take-up for income-driven repayment plans certainly was a significant factor.

e. **Numerous media reports attributed the re-estimate to President Barack Obama's efforts to enrich repayment relief to federal student loan borrowers. Many argue that insufficient information is known to the public about how these income-driven repayment plans are affecting the cash flow of the student loan portfolio. Should taxpayers have greater information and transparency into the performance of the student loan portfolio?**

Cost information about income-driven repayment plans is provided in the annual President's Budget Appendix. See page 381 of the FY 2017 President's Budget Appendix at FY 2017 President's Budget Appendix. Loan portfolio information by repayment plan type also can be found on the FSA Data Center at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/DLPortfoliobyRepaymentPlan.xls. Detailed information about the performance of all federal credit programs, including student loans, is available online in the Federal Credit Supplement. FSA, in collaboration with other offices in the Department, uses modeling and portfolio analytics to track the performance of the student loan portfolio and to generate greater insights into the impacts of the repayment plans on the cash flows of the student loan portfolio. FSA initiatives are underway to expand and enrich this capability, which will increase opportunities for insights into the performance of the student loan portfolio. Each quarter, FSA increases the number of new data sets on the FSA Data Center, including additional information about income-driven repayment plans.

2. **Senate Budget Committee Chair, Mike Enzi, recently issued a report on "back-end agency spending" that looks at how decisions you are helping to make, along with**

the Secretary, are adding to the national debt. Examples cited in this report include income-based repayment, borrower defense, and prior-prior year.

a. **Do you have a long-term model in place to manage cash flow and risk?**

Yes, the Department of Education has a long-term model in place to estimate the federal costs of the various student loan programs.

As mentioned in our answer to Question 1a., the Department current model is the Student Loan Model (SLM). The SLM is used to prepare estimations of future costs and revenues of the federal postsecondary student loan programs. These cash flows from the SLM are required inputs for the Office of Management and Budget (OMB) Credit Subsidy Calculator, which in turn calculates the net present value of the SLM cash flows as a measure of the Federal Budget subsidy rate for the student loan programs. The SLM calculates student loan net cost estimates for loan cohorts where a cohort consists of the loans originated in a given budget (fiscal) year. Estimates are the result of calculating the incomes and outlays for past, current, and future loan cohorts for the full life of the loans. These calculations are based on factors, referred to as assumptions, such as interest rates and default rates.

FSA, in collaboration with the Department, is using modeling and portfolio analytics to track and predict the performance of the student loan portfolio in order to better manage the cash flow and risk of the student loan portfolio and specific repayment plans. FSA initiatives are underway to expand and enrich this capability, which will increase opportunities for insights into the performance of the student loan portfolio.

b. **When making these back-end spending decisions, do you ever try to offset the costs, or reduce the costs, before implementing?**

We carefully consider costs before implementing any regulatory or administrative change. When the Department considers changes to its student financial aid regulations, the Department uses a negotiated rulemaking process, as well as the standard government-wide regulatory review process (as documented in Office of Management and Budget Memorandum M-09-13 and Executive Order 12866), including review by the Office of Management and Budget. These processes, which also include a Regulatory Impact Analysis detailing and documenting potential benefits and costs of proposed action, ensure a wide and inclusive review of any proposed decisions affecting program costs. Administrative changes not subject to a formal rulemaking process also undergo an extensive review before implementation, in accordance with Office of Management and Budget Circular A-11, Section 31.3 and Office of Management and Budget Memorandum M-05-13, "Budget Discipline for Agency Administrative Actions."

3. **FSA and its contractors have a tremendous amount of portfolio data already, but this information is not all currently available to the American public. Please provide the Committee the following data:**

a. **The number of loans in each of the income-driven payment plans that are making payments of $0 each month? Less than $50?**

$0 Payment per Month in a(n)...	Income-Contingent Repayment (ICR) Plan	Income-Based Repayment (IBR) Plan	Pay As You Earn (PAYE) Plan
	Approximately 169,600 loans *Represents ~71, 400 borrowers*	Approximately 5.8 million loans *Represents ~1.17 million borrowers*	Approximately 1.6 million loans *Represents ~288,300 borrowers*

NOTE: Data valid as of December 15, 2015.

Less than $50 Payment per Month in a(n)...	Income-Contingent Repayment (ICR) Plan	Income-Based Repayment (IBR) Plan	Pay As You Earn (PAYE) Plan
	Approximately 50,500 loans *Represents ~25,900 borrowers*	Approximately 909,00 loans *Represents ~183,400 borrowers*	Approximately 340,300 loans *Represents ~57,400 borrowers*

NOTE: Data valid as of December 15, 2015. Less than $50 payment per month does not include a zero-dollar payment.

b. **What percentage of borrowers using income-driven repayment plans are making payments of $0? Less than $50?**

$0 Payment per Month using a(n)...	Income-Contingent Repayment (ICR) Plan	Income-Based Repayment (IBR) Plan	Pay As You Earn (PAYE) Plan
	17%	45%	47%

NOTE: Data valid as of December 15, 2015.

Less than $50 Payment per Month using a(n)...	Income-Contingent Repayment (ICR) Plan	Income-Based Repayment (IBR) Plan	Pay As You Earn (PAYE) Plan
	6%	7%	9%

NOTE: Data valid as of December 15, 2015. Less than $50 payment per month does not include a zero-dollar payment.

c. **What percentage of borrowers who have Direct Loans in repayment actually paid down loan principal in FY 2015?**

Of borrowers who should have made a payment in FY 2015, 64 percent had a lower principal at the end of the fiscal year. This figure includes borrowers who reduced principal by making payments, as well as borrowers whose loan principal was lower for other reasons, such as loan forgiveness or discharge.

d. What is the outstanding loan obligation in dollars for borrowers in income driven repayment plans that are making payments of less than $50 each month?

The total outstanding balance for these borrowers is $80 billion as of December 15, 2015.

e. What percentage of Direct Loan borrowers in each type of income-driven repayment plan (income contingent, IBR, and PAYE) are currently making a monthly payment that satisfies the monthly accrued interest?

Among Direct Loan borrowers, approximately 76 percent in the Income-Contingent Repayment (ICR) plan, 27 percent in the Income-Based Repayment (IBR) plan, and 26 percent in the Pay-as-You-Earn (PAYE) plan have scheduled monthly payments that satisfy the monthly accrued interest as of December 15, 2015.

f. What percentage of Direct Loan borrowers in each type of income-driven repayment plan are projected to have loan balances remaining at the end of their repayment period? What's the projected total amount of these loan balances? How many of these borrowers will have loan balances larger than the original amount borrowed at the end of their repayment term?

Because borrowers can switch between the ICR, IBR, and REPAYE repayment plans while in repayment, it is not possible to separately estimate outcomes for each plan type. PAYE is only available to certain borrowers and, while these borrowers could choose one of the other IDR plans, none are expected to do so because PAYE has the most generous provisions.

Among borrowers through the 2026 cohort completing their repayment terms and not receiving Public Sector Loan Forgiveness, it is estimated that:

- They will borrow $295 billion.
- They will repay $386 billion over their entire repayment period.
- They will end up with a balance of $224 billion.

Among borrowers through the 2026 cohort expected to receive Public Sector Loan Forgiveness, it is estimated that:

- They will borrow $146 billion.
- They will repay $89 billion prior to receiving forgiveness.
- They will end up with a balance of $166 billion.

Projected Distribution of Outcomes of IDR Borrowers: All Cohorts Through 2026 Includes Only Borrowers Estimated to Complete Their Full Repayment Period

	Not in PAYE*	In PAYE
Public Sector Loan Forgiveness	29.9%	30.8%
Loan Paid Off	31.9%	16.7%
Balance remaining less than original amount borrowed	23.1%	37.2%
Balance remaining larger than original amount borrowed	15.1%	15.4%

* Because borrowers can switch between the ICR, IBR, and REPAYE repayment plans while in repayment, it is not possible to estimate outcomes for each plan separately. PAYE is only available to certain borrowers and, while borrowers could choose one of the other IDR plans, none are expected to do so because PAYE has the most generous provisions.

g. Is the repayment speed for each cohort of Direct Loans slower than originally projected? If so, by how much?

The assumed average loan maturity for the Direct Loan program is published annually in the President's Budget Credit Supplement. The most recent copy can be found at https://www.whitehouse.gov/sites/default/files/omb/budget/fy2017/assets/cr_supp.pdf.

In recent years, the assumed average loan maturity has varied between 10 and 13 years, with 13 years being the assumed loan maturity for the most recent Direct Loan cohort.

h. What are the total budget costs of all of the Department's income-driven repayment programs, broken out by individual plan?

The Department does not estimate budget costs by individual income-driven repayment program. However, the Department does estimate an overall budget cost for all income-driven repayment programs. This budget cost can be found in the President's Budget Appendix. The most recent version can be found on page 381 at www.whitehouse.gov/sites/default/files/omb/budget/fy2017/assets/edu.pdf.

i. How long is the average loan in default before a borrower makes a regular payment again?

The average time between Direct Loans that entered default during FY 2010 and then subsequently had the borrower make a regular payment is approximately 15 months.

j. How long is the average time between when borrower made a payment and when they were declared in default? That is, when the loan defaults, when was the last payment made, and if there was never a payment, when did the borrower leave school.

If there was a payment, most borrowers who default still do so during the first five years after entering repayment. However, there several paths toward that default, and each path contains a variety of factors that would make calculating an "average" time to default challenging. Some borrowers cycle in and out of various levels of delinquency before defaulting (and some of these cases are resolved without a default). While most borrowers who use forbearance and deferment do not default, those who use them and do

default do so later than one year into repayment, because the forbearance or deferment typically lasts at least six months to one year.

If there was never a payment and the borrower never used a forbearance or deferment, then default would occur approximately 18 months after the borrower left school, which includes the six-month grace period and 12 months past due (one year delinquent).

4. **Student loan servicers have been around since the inception of the guaranteed student loan program. Why has FSA never tried to better coordinate servicing standards and processes until recently?**

The current Federal servicing environment developed as FSA worked to manage major transitions and dramatic growth in the Department of Education's servicing portfolio stemming from the Ensuring Continued Access to Student Loans Act of 2008 program and the shift to 100 percent Direct Loans enacted by the SAFRA Act of 2010 (SAFRA). To meet the aggressive timelines established by these statutory changes, which in both cases allowed less than six months between passage and implementation, FSA intentionally leveraged its vendors' commercial federal student loan servicing systems and processes. As a result of this decision, and of the requirement enacted as part of SAFRA for the Department to provide servicing contracts to eligible and qualified not-for-profit entities, FSA manages a multi-servicer environment that currently features 10 separate vendors using four different servicing platforms.

FSA and the contractors have worked under and consistently met highly aggressive development and implementation schedules, often imposed by statute or regulatory changes, with significant attention to ensure that all practices are effective, efficient, fair, and structured to increase borrowers' customer satisfaction.

In addition, FSA's overall initial procurement strategy was to foster competition among servicers by allowing variations in approach and awarding future loan volume based on performance. Since that time, however, FSA has been moving to standardize areas that directly affect borrower balances and borrowers' access to program benefits. A number of changes in this area, such as standardization of interest capitalization practices, have already been put in place; a re-compete of the contracts is about to begin in which other changes and reforms will be implemented with the new vendors.

5. **Please provide details on when the solicitation for comments on FSA's strategic plans were made public.**

A draft version of FSA's FY 2015–2019 Strategic Plan was provided to stakeholders on September 30, 2015, via an e-mail from StrategicPlan@ed.gov, an official Department of Education e-mail account created expressly for this purpose. The e-mail included a copy of the Strategic Plan and a signed letter from me. In accordance with Section 141(c)(1)(B) of the Higher Education Act (HEA), recipients included organizations representing "students, institutions of higher education, Congress, lenders, the Advisory Committee on Student Financial Assistance, and other interested parties."

6. **What actions has FSA taken to now assure schools that were threatened with administrative capability findings due to their GE reporting conflicts that they are now in compliance?**

   The Department continues to work with schools on a case-by-case basis regarding their GE reporting compliance and to address any data reporting issues. On an ongoing basis, schools that remain non-compliant with the reporting requirement—either in-full or partially—are reviewed and steps are taken as appropriate.

7. **The Higher Education Act states that the "Secretary may allocate to the PBO such additional functions as the Secretary and the Chief Operating Officer determine are necessary or appropriate to achieve the purposes of the PBO" (HEA, Section 141(b)(3)). During your tenure, have functions been added to the PBO? If yes, what are these functions?**

   The Secretary has added functions to add to those which are part of its basic mission: : to provide student financial aid. For example, the Gainful Employment regulations added new functions, as did the transfer of the Health Education Assistance Loans (HEAL) program from Health and Human Services and the loan forgiveness program for public service. In the past year, there was also legal work that resulted from school closures.

8. **The Department's CIO testified on November 17, 2015 that his greatest challenge was retaining qualified talent to help secure agency information. Of course, the bulk of sensitive information is housed at FSA. The CIO went so far as to state that he would prioritize getting talented IT specialists over getting additional money for IT.**

   a. **Do you agree with his statement?**

      Yes.

   b. **Do you plan to use any of your special hiring authorities under the Higher Education Act to obtain these specialized IT staff that will make federal student aid information more secure?**

      Yes.

   c. **You wrote in your testimony that: *"The PBO hiring flexibilities allow FSA to retain staff with experience and specialized expertise."* To date, have you used your hiring authorities to secure IT specialists? How many? Do you need more?**

      We operate in an environment that requires a continuous focus on ensuring we have the right systems, processes, and people. Through this balance, we can best mitigate risk around security compromises and breaches, and we can identify threats quickly.

FSA has a recruiting strategy that consists of bringing additional information security staff into our organization. We recently hired two new security staff members in the Technology Office, both with extensive federal service in security, including experience with the Department of Homeland Security and the Department of Defense. We also recently hired supervisory information system security officers (ISSOs) and are planning to hire additional career ladder security specialists. These new hires will support the more than 100 systems, networks, and applications across FSA to ensure they operate within Federal security boundaries to minimize threats and vulnerabilities to FSA's data and networks.

Cybersecurity functions are carried out by employees throughout FSA, with many IT professionals having experience in various aspects of security. Within the Technology Office, more than 20 percent of employees are focused exclusively on security, while more than 75 percent have a role in ensuring the security of FSA's data, networks, and system design. Outside the Technology Office, other employees support cybersecurity activities, including the more than 30 ISSOs located within specific applications and systems groups.

In the FY 2017 President's Budget, the Department is requesting a $13.6 million increase in personnel costs. Part of that requested increase is to pay for additional support for technology assurance, cybersecurity, and data management.

9. **During the November 17, 2015 Oversight Committee hearing with the CIO of the Department of Education, the topic of the Debt Management and Collections System- the DMCS – was discussed in some depth as it relates to the risk rating of this investment on the *Federal IT dashboard.* The dashboard indicates that the DMCS is not PIV enabled - it does not employ two-factor authentication, or what the OMB calls "strong authentication."**

   a. **Why does a system that stores the information on defaulted loans - almost 5 million borrowers- not employ basic two-factor authentication technology?**

   DMCS has employed basic two-factor authentication technology since August 10, 2015, and will advance to the PIV-I certificate technology OMB calls "strong authentication" in two phases to be completed in July 2016.

   DMCS put Level 3 Two-Factor Authentication, using FSA Key Fob Tokens, into production August 10, 2015, to comply with NIST Special Publication 800-53 Rev 4. Thus, after August 10, 2015, privileged users accessed DMCS with a username, a user password, and a second password functional only for 30 seconds generated by the user's token.

   Phase 1 of DMCS PIV-I certificate-based authentication (OMB's strong authentication technology) was completed December 2015. All privileged users in the Utica, New York production and non-production environments, and the Manassas, Virginia disaster

recovery environments will be required to access DMCS only with this advanced strong authentication.

Phase 2 of DMCS PIV-I certificate-based authentication (OMB's strong authentication technology) is being completed in early 2016. The first step in Phase 2 is to make the Manassas, Virginia Data Center compliant with FedRAMP requirements in March 2016. The second step in Phase 2 is to provide all privileged users in the Manassas, Virginia Data Center production and non-production environments with PIV-I certificates, and then to require them to access DMCS only with this advanced strong authentication by July 2016.

b. **Do you ever consult with the Agency CIO about information reported into the *Federal IT Dashboard?***

FSA collaborates directly with the Agency CIO to create the Department's Federal IT Dashboard and to populate it with new information. All FSA data contained in the Dashboard is delivered to the Agency CIO, who then creates a combined Dashboard.

10. **Under the Higher Education Act, Federal Student Aid is "responsible for administration of the information and financial systems that support student financial assistance programs ....*excluding the development of policy relating to such programs (emphasis added).*" Under the Department's structure, policy development rests not with FSA but with the Assistant Secretary for Postsecondary Education (OPE) and Assistant Secretary for Planning, Evaluation, and Policy Development (PEPD) yet both of these positions are currently vacant. At the same time, FSA has a number of Policy Liaisons who seem to be responsible for policy development and implementation. Where is the bright line? Who is setting policy on student financial assistance? Is it FSA? Or is it the policy offices even though the offices' lead positions are vacant?**

As provided in the HEA, FSA does not determine student aid policy. Policy decisions are made by the Secretary and his or her appointees. As noted, the Departmental offices responsible for student aid policy are the Office of Postsecondary Education (OPE) and the Office of Planning, Evaluation, and Policy Development (OPEPD). On major student aid policy issues, OPE and/or OPEPD staff make recommendations to the Department's senior leadership, including where appropriate, the Secretary, for final decisions.

That said, as is also provided in the HEA, FSA provides input and recommendations to the Department's policy makers. Those recommendations are provided by FSA's subject matter experts, including Policy Liaison and Implementation staff, who work closely with policy staff in OPE and the Office of the Under Secretary.

11. **One of the main purposes of the based on language passed in 1998, was to make student financial assistance programs authorized under the Higher Education Act more understandable to students and their parents. Yet, the Department of Education recently completed a negotiated rulemaking session that created a ninth**

repayment plan. These myriad of plans are one of the reasons that students and families feel overwhelmed with the federal financial aid system. Why is the Department making it more difficult for student and parent borrowers to pay back their student loans?

The addition of the REPAYE plan to the existing repayment plan options will enable five million more Direct Loan borrowers to cap their monthly student loan payment at 10 percent of discretionary income, without regard to when the borrower first obtained the loans. The REPAYE plan will make it easier for these borrowers to repay their student loans. When REPAYE was created, existing income-driven repayment plans were retained so no borrower currently paying under those plans would be required to switch to another repayment plan. However, we recognize that the multiplicity of repayment plans may cause confusion for borrowers.

To address this, our FY 2017 budget proposal would create a single income-driven repayment plan for loans originated on or after July 1, 2017, similar to the REPAYE plan. This would simplify borrowers' experience and allow for easier selection of a repayment plan, while reducing program complexity and targeting benefits to ensure program effectiveness. Under the budget proposal, students who borrowed their first loans prior to July 1, 2017, would continue to be able to select among the existing repayment plans for loans borrowed to fund their current course of study, though loans they borrow for future degrees would be under the new terms.

12. **The purpose of Federal Student Aid is to reduce the administrative costs of the student loan program. But the President's budget request for Student Aid Administration, which includes personnel costs, continues to grow, including a $281 million increase this year. In 2006, the budget was $695,843. Can you identify specific savings and cost efficiencies that FSA has realized since its creation 17 years ago.**

Reducing the costs of administering student financial assistance programs is one of the five purposes of the PBO, as defined by the HEA. Since 2006, there has been a 512 percent increase in the number of contract awards and modifications, from 285 to 1,745. The number of unique vendors FSA manages has increased more than 175 percent—from 85 to 234—from 2006 to 2015.

Currently, two metrics that best demonstrate the scope of FSA's mission are the number of FAFSAs processed and the number of borrower accounts serviced. FSA has seen a 43 percent increase in the number of federal student aid applicants between FY 2006 and FY 2015—from 14 million to nearly 20 million—and a 216 percent increase in borrower accounts serviced over the same time period—from 9.2 million to 29.1 million.

The significant increase in borrower accounts serviced was driven by two major legislative changes that have occurred to the student loan programs in the past decade. First, the credit market disruption in 2008 resulted in the purchase of more than $110 billion in FFEL loans as required by the Ensuring Continued Access to Student Loans Act of 2008 (ECASLA). The

number of borrowers serviced by FSA was further increased by the ending of new loan originations under the FFEL program through the SAFRA Act of 2010.

One of FSA's Strategic Goals is to develop efficient processes and effective capabilities that are among the best in public and private sectors. Though increases in operational volumes naturally cause increases in total costs, we have instilled a culture of cost management and have created a team to track our successful efforts to manage and reduce unit costs. Specific examples of realized cost reductions include:

- Origination unit cost negotiation (FY 2009): Using independently calculated origination unit costs, negotiated an approximately $4 million reduction in proposed origination costs at higher volume bands.
- Borrower account transfer fee negotiation (FY 2010): Negotiated the elimination of $5.2 million in proposed transfer fees for migrating borrower accounts from the legacy CSB system to the new service provider system.
- Origination printing and fulfillment (FY 2010): Transitioned from printing, storing, and delivering paper-based fulfillment to an electronic product fulfillment platform where users can download and print their own forms and materials on demand. The migration from paper-based to electronic fulfillment resulted in approximately $4.3 million in cost savings and avoidances.
- Tape storage rate reduction (FY 2010): Negotiated a $7,018,206 reduction in tape management after benchmark data revealed the proposed unit rate was more costly than the industry standard.
- Integrated Student Experience (FY 2012-13): Consolidated legacy sites (College.gov, FederalStudentAid.gov, StudentAid.gov, Ombudsman.ed.gov, Students.gov) into one, which realized $1,302,544 in savings and cost avoidances for system hosting and O&M.
- National Student Loan Data System (NSLDS) contract (FY 2015-19): Re-competed the NSLDS contract and consolidated system requirements resulting in $13,343,419 in cost savings/avoidances.
- Common Origination and Disbursement (COD) contract (FY 2015-20): Re-competed the COD contract (TIVOD) resulting in $123,764,402 in savings/avoidances over the five base years by removing pricing tiers, streamlining administrative efforts, and leveraging new technologies.
- Virtual Tape Library implementation (FY 2015): Implemented VTL for non-mainframe and recovery services, which resulted in a $1,500,000 cost savings from the elimination of back-up tape being sent to off-site storage.

13. It is unclear which, and how many, FSA employees are authorized to procure property and services on behalf of the Department. So the Committee can better understand how FSA personnel execute contracts, and contract credentialing at the Department generally, please provide the following documents and information:

a. Documents referring or relating to execution of a contract valued at $1 million or more by any FSA employee from fiscal year 2012- present, including, but not limited to, the name and title of each employee who executed the contract.

Contracting officers are the only individuals authorized to enter into contracts for goods and services on behalf of the federal government. The requested list of contracts entered into by FSA contracting officers is in the attached appendix.

FSA
Contracts_FY12-FY1(

The primary source of these data is the Federal Procurement Data System (FPDS), the single repository for information about each contract action. FPDS information is available to the public. Contracting officers enter information about each contract into FPDS when a contract is developed or a change to a contract is made. The identity of the contracting officers that awarded each contract was obtained from the Department's contract writing system.

The values of the contracts listed in the PDF attachment reflect the total potential value of each contract. Most contracts are awarded and funded for a year; many include a term called an "option," which permits the government to extend the contract for additional years.

The "total potential value" includes the value of all potential "options". Additionally, consistent with government-wide acquisition processes, FSA awards contracts that permit a contracting officer to place an order for a set item/service at a set amount (e.g., ordering contract). To the extent any of FSA's orders are valued at $1 million, orders off of existing agency ordering contracts or other agency ordering contracts also are provided. The title of each employee who awarded a contract is "Contracting Officer".

b. **The warrant, including the expiration date for such warrant, and the signing limit, for each employee who executed a contract valued at $1 million or more from fiscal year 2012 – present.**

In accordance with Federal Acquisition Regulations Part 1.602-1, only a contracting officer, acting within the authority of their warrant, is authorized to execute a contract. The warrant identifies any limitations to the authority of the contracting officer. Limitations may include such things as dollar amounts, the type of contracts, and administrative limitations.

The warrant is issued on Standard Form 1402, is numbered and dated, and is approved by the appointing authority. Within FSA, the appointing authority is the Head of the Contracting Activity. Each warrant includes the standard language, "Unless terminated sooner, this appointment is effective as long as the appointee is assigned to the Office of Federal Student Aid." This language means that an employee's departure, retirement or other action that causes the employee to no longer work in FSA automatically terminates the appointment. Other actions, such as internal personnel reassignments to positions that

do not require a warrant, are accomplished via a termination of appointment letter. Copies of the warrants are included as PDFs on the DVD-RW marked "FSA's Warrants."

14. Since 2009, FSA has utilized the expertise of 10 for-profit and not-for-profit (NFP) providers to service the Direct Loan portfolio of over 31 million borrowers. The Department of Education's Request for Information on Direct Loan Servicing discusses the possibility of moving to a single servicer and Departmental staff has talked openly about shrinking the number of servicers to improve contract management. Why is FSA thinking about moving away from the competitive structure that promotes high levels of customer service, especially when most remember the problems with the Department's old contractor? And why is FSA having difficulty in effectively managing 10 contracts when other federal agencies manage hundreds of contractors?

Student loan servicing is one of the Department's largest and most complex responsibilities. Our goals in managing this undertaking are to ensure that borrowers receive high-quality service and to protect the interests of taxpayers. We currently are in the planning phase of a new student loan servicing acquisition; this effort, which we expect will begin this year, will streamline and simplify servicing systems and processes to improve customer service, increase efficiency, and enhance the Department's ability to effectively oversee and monitor servicing operations. While the acquisition process still is in its initial phase, this effort will likely result in significant changes to the current servicing environment over the next few years.

The current structure of Federal student loan servicers developed as a result of the Department's successful efforts to quickly and effectively manage major transitions and dramatic growth in our servicing portfolio stemming from the Ensuring Continued Access to Student Loans Act of 2008 and the shift to 100 percent Direct Loans enacted through SAFRA. To meet the aggressive timelines established in these laws, which each allowed less than six months between passage and implementation, FSA intentionally leveraged its vendors' commercial federal student loan servicing systems and processes. As a result of this decision, and of the statutory requirement to provide servicing contracts to eligible and qualified not-for-profit entities, FSA manages a complex, multi-servicer environment, which as you note, currently features 10 separate vendors using four different servicing platforms.

While this contractual structure does foster competition among servicers by allowing variations in approach and awarding future loan volume based on performance, it also has led to inconsistent experiences for borrowers; account transfers across systems; complex financial reporting and reconciliation requirements; and an inefficient and unnecessarily costly requirement to manage and pay for each process, statutory, or regulatory change across 10 separate vendors. Over the past few years, FSA has been moving to address some of these issues; for example, we have worked to standardize areas that directly affect borrower balances and borrower access to program benefits. In addition, the President's Student Aid Bill of Rights included a number of key improvements for borrowers, including a common interface and standardized branding and communications. While some of these enhancements, such as standardization of interest capitalization practices, have already been

put in place, it will be more efficient and cost-effective to implement major changes through the acquisition process.

15. If a not-for-profit servicer has exceptional service marks, as judged by the Department, why is the Department arbitrarily capping the amount of student loan accounts they can service?

There were two separate, multiple award pools of Indefinite Delivery, Indefinite Quantity (IDIQ) servicing contracts put in place. The first pool was put in place pursuant to the Competition in Contracting Act and is commonly referred to as the Title IV Additional Servicers contracts, or TIVAS. The second pool only was put in place pursuant to SAFRA, and is commonly referred to as the Not-For-Profit (NFP) servicing contracts. Both pools of servicing contracts are performance-based, with vendors competing for allocations of new borrower accounts; however, the portfolios serviced by the two pools of servicers are fundamentally different.

The primary difference is that borrower accounts provided to the NFP servicers were already in repayment, much easier to service, and in most cases, were current at the time they were transferred. These loans are more stable and mature than the portfolios of the TIVAS, which have high volumes of new borrowers who are more likely to go in and out of delinquency.

As a result of the differences in portfolios and the fact these two distinct multiple award IDIQ pools were made at different times under different circumstances, separate allocations have been established for each group of servicers. Servicers within each pool compete based on the common performance metrics. The size of the respective allocation pools has been determined based on operational considerations and a focus on minimizing risk to borrowers and taxpayers. NFP servicers first received new borrower accounts January 1, 2015. At that time the NFP allocation pool was established at 25 percent of new borrower accounts to ensure that all servicers had the capability to manage the new workflow.

We currently are in the planning phase of a new student loan servicing acquisition; this effort, which we expect will begin in early 2016, will streamline and simplify servicing systems and processes to improve customer service, increase efficiency, and enhance the Department's ability to effectively oversee and monitor servicing operations. As this effort likely will result in significant changes to the current servicing environment over the next few years, we believe it is prudent to maintain the existing distribution of accounts among federal servicers until a post-acquisition transition plan is fully developed. Under this transition plan between 2016 and 2019, more than 30 million borrower accounts will be shifted from existing contracts to those awarded under the new acquisition. In developing this plan, which will include a structure for future allocations among servicers, we will focus on minimizing disruptions to borrowers, facilitating access to customer service improvements, and avoiding unnecessary cost and complexity.

The Consolidated Appropriations Act, 2016 included a requirement that, no later than March 1, 2016, the Department allocate new student loan borrower accounts to eligible student loan servicers on the basis of their performance compared to all loan servicers utilizing

established common metrics, and on the basis of the capacity of each servicer to process new and existing accounts. We will implement this requirement using the current metrics for the March 1, 2016 through August 30, 2016, allocation period.

16. **Currently, the Department prohibits NFP servicers from originating and servicing consolidation loans, forcing interested borrowers to switch servicers and undermining consumer choice. What's the status of allowing NFPs to originate and service these loans?**

The origination and servicing of new consolidation loans was competitively awarded to the four TIVAS in FY 2013. As this contractual arrangement is in place already and provides sufficient capacity to provide the required services for all estimated consolidation volume, we do not plan to award additional contracts to NFP servicers to service new consolidations at this time. To do so would result in additional student aid administration costs, create additional risks, and add operational complexity while adding no value for borrowers or taxpayers.

17. **One of the purposes of FSA is to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity. Yet, we're told by many stakeholders, including other federal agencies that the federal student loan servicers are not allowed to speak openly about their processes or share best practices among each other, discouraging innovation. Why has the Department imposed a gag-order on its servicers? How is this consistent with the PBO's statute?**

The Department has never imposed a gag order on the servicers or any other vendor. Within the context of our performance-based contracts in which servicers compete for additional volume, FSA has worked with our vendors to identify and share best practices. Given the competitive nature of the contracts, however, servicers are not required to share all their processes and approaches. Instead, FSA works with all servicers to provide forums for open discussion and information sharing. In addition, the servicers often work together independently to discuss issues and develop common approaches, white papers, and recommendations. Engagement with outside entities on best practices is not part of the servicers' requirements; servicers, like all our vendors, are required to obtain approval from the Department prior to sharing information or responding to inquiries with outside entities.

18. **There have been a number of reports and other issuances over the last few months from the Department of Education, the Consumer Financial Protection Bureau and the Department of the Treasury criticizing the servicing of federal student loans. All seem to expect that the federal loan servicers need to do more. "High touch servicing" has been mentioned. Do you believe current compensation levels are adequate for the servicers to perform all the tasks the agencies are expecting of them?**

Compensation levels were adjusted in late 2014 to encourage servicers to invest in more effective outreach and counseling efforts to help borrowers learn about and choose

repayment plans and other program benefits that best fit their circumstances. We are reviewing the impact of recent and planned new requirements on servicer operations and maintenance costs and are considering whether additional adjustments are appropriate. We also are assessing the impact of changes to date and will use all of this information, along with other market research, in setting pricing for the upcoming loan servicing acquisition.

19. **The Department of Education is currently engaged in a pilot program with the Department of Treasury to use federal government employees to collect on student loans, potentially pushing the private sector out of the picture. Considering the federal government's difficulty in properly managing the contract, what's the rationale for federal employees actually performing the work?**

The Department of the Treasury's Debt Management Services (DMS) collects delinquent, non-tax debt on behalf of federal agencies, in accordance with the Debt Collection Improvement Act of 1996 (DCIA) and other debt collection laws. As part of its Cross-Servicing Program, DMS collects debt using its internal staff and contracts with private collection agencies to support collection efforts. In the case of student loans, however, the Department of Education retains servicing and collection responsibilities pursuant to an exemption from Treasury provided in 2001 based on the size and the unique nature of the program.

For this pilot, the Department of Education has provided DMS with a pool of approximately 16,200 defaulted loans, and since February 2015, DMS staff has been conducting collections with internal staff. The pilot enables DMS and the Department of Education to gain more direct experience in the collection of student loan debt, to identify and test potential improvements in the collection process, and to inform the Department's broader collections efforts.

20. **"Program reviews" are a key part of the federal aid process- they are designed to confirm that a school meets FSA's requirements for "administrative capability" - among other things. The IG reported to you, Mr. Runcie, that there are "significant internal weaknesses, in this process. You disagreed with the IG's findings. You told the IG "it is unreasonable that FSA or any organization can ensure that all instances of noncompliance are identified." Is it really unreasonable that taxpayers expect FSA to find all issues of noncompliance, and deal with them?**

FSA disagreed with the IG's conclusion that the internal weaknesses were significant. The findings in the report focused on the lack of documentation in the files indicating what had been reviewed (e.g. checklists). However, the results of the reviews themselves demonstrated that the work had been completed, even though boxes may not have been checked in all instances. The reviews resulted in significant findings at the institutions and tens of millions of dollars in liability. FSA agreed that it needed to improve its documentation process and has since taken appropriate corrective actions to do so, including adding an internal quality assurance process auditing group. Neither the lack of documentation nor the audit findings demonstrated significant internal weaknesses in the program review process.

FSA's comment regarding the OIG's use of the term "all" was simply an acknowledgement that it is an absolute term, which usually is avoided in any situation in performance measurement. The OIG recognized FSA's concern regarding the term, when in its final report, the OIG clarified its statement on page 14 by indicating, "We did not state that FSA must identify all instances of noncompliance."

21. **There are over 6,100 schools eligible for Direct Loans. The Committee's understanding from the Inspector General is that approximately 100 program reviews, in draft or final form, are conducted a year. How many program reviews does FSA conduct annually?**

FSA conducts approximately 300 program reviews each year. However, in addition to the program reviews, over the last five fiscal years, FSA has resolved—per year, on average—1,570 deficient audits, analyzed 985 financial statements, and reviewed 1,392 recertification applications and 1,692 other application requests for approvals. These actions result in a Comprehensive Compliance Review being conducted, which includes the review of each institution's compliance audits, financial responsibility determination, status of eligibility, any open program review issues, cohort default rates, student complaints, and other related compliance issues/inputs.

a. **Given the low volume of program reviews conducted annually, does this mean some institutions have NEVER had a program review? What percentage of schools has NEVER had one?**

Program reviews are conducted at the schools that demonstrate the highest risk to Title IV programs. However, in addition to submitting an annual compliance audit, all are required to undergo a recertification for continued participation in the Title IV programs at least once every six years; this recertification includes a comprehensive review of the institution. Schools selected for a program review are those schools that demonstrate the highest level of risk based on analysis conducted in the actions described above or other external information received. In the past five fiscal years, an average of 304 schools and school third-party servicer reviews have been conducted per year representing nearly five percent of participating institutions. As of August 2015, 57 percent of the institutions participating in Title IV programs have had a program review conducted since 1992. Our experience with our compliance assessment reviews—which are a limited number of reviews conducted at schools based on random selection, not risk—has shown that the schools that have not been reviewed in this time period (approximately 43 percent of participating institutions), generally have significantly fewer findings than those we target for reviews based on data and other information.

b. **Program reviews help determine if a school is "administratively capable." Please explain how FSA been sending letters to schools all over the country threatening that they may be "administratively incapable" in recent months when FSA only conducts program reviews for 1.6% of schools? On what basis is FSA treating - schools in such an extreme manner?**

A program review of an institution is only one means of determining an institution's compliance with applicable statutes and Title IV regulations. A review of compliance with regulatory requirements also is conducted with the review of and approval or denial of eligibility applications, resolution of deficient audits, review of payment claims for institutions on heightened cash monitoring, and in managing other operational requirements, such as reporting of gainful employment (GE) data to the National Student Loan Data System (NSLDS). POCs within FSA work collaboratively to ensure that institutions are meeting requirements and when necessary are referred to Program Compliance for action which may include notification to an institution when it appears it is not in-compliance with a particular provision such as reporting GE data to NSLDS. Analysis conducted after the July 31, 2015, implementation deadline for reporting, determined schools that appeared to be non-compliant with the reporting requirement in total or partially. In addition to sending a letter, proactive contacts were made by FSA staff across the country to determine what assistance the institutions may need to come into compliance.

22. FSA has 232 staff conducting program reviews. While these staff members do more than just conduct program reviews, how is FSA only producing 100 program reviews annually with 232 staff?

FSA conducts approximately 300 program reviews per year at the institutions determined to present the highest risk to Title IV dollars. However, the staff is responsible for considerably more activities than merely conducting program reviews. In addition, these same staff processed approximately 3,000 eligibility applications, which included approximately 1,200 recertifications, requests for approval of changes in ownership, mergers, new schools, and new programs or locations that require substantive review prior to approval. They also reviewed and processed approximately 1,200 Heightened Cash Monitoring (HCM) packages and claims. This accounted for more than 600 schools on HCM1 within the year and more than 120 schools on HCM2 within the year, submitting multiple claims. The latter process requires staff to conduct detailed file review of a student's eligibility for submitted payment claims.

FSA may place institutions on an HCM payment method to provide additional oversight of cash management. HCM is a step that FSA can take with institutions to provide additional oversight for a number of financial or federal compliance issues, some of which may be serious and others that may be less troublesome.
There are two levels of HCM:

- HCM1: After a school makes disbursements to eligible students from institutional funds and submits disbursement records to the COD system, it draws down FSA funds to cover those disbursements in the same way as a school on the Advance Payment Method.

- HCM2: A school placed on HCM2 no longer receives funds under the Advance Payment Method. After a school on HCM2 makes disbursements to students from

its own institutional funds, a Reimbursement Payment Request must be submitted to the Department for those funds.

Annually, each school is required to submit a compliance audit and the School Service Eligibility Group (SESG) staff resolved approximately 1,600 deficient compliance audits. Each audit also is accompanied by a financial statement and during one year, the staff resolves approximately 1,000 financial statements, which have been flagged for additional review. In the last fiscal year, staff analyzed financial statements with flagged issues, determined correct composite scores, assessed 90/10 compliance, and managed securing and collecting Letters of Credit from 1,316 schools totaling approximately $7 billion.

This staff also is responsible for following up on and resolving an average of 3,500 complaints against institutions. Finally, new school reviews are conducted at institutions participating in Title IV for the first time. It is through the conduct and analysis of information reviewed through all of these processes that some of the approximately 300 institutions are selected for program reviews.

a. Can't we do better? How can it be that 232 people are conducting barely 100 reviews a year, but report feeling completely overwhelmed?

As indicated above, the 232 staff members conduct approximately 300 program reviews per year above, in addition to a great number of other compliance-related activities.

b. Why did FSA disagree with the IG's recommendation it re-assess the time staff is given to conduct reviews? If you aren't going to provide staff more time to do the reviews properly, will you streamline the overall process?

FSA did not disagree with the OIG's recommendation to reassess the time it takes staff to conduct program reviews. FSA completed a reassessment of the time it takes to complete the reviews. The results indicated the timeline allocated was sufficient for conducting the field work with the proper preparation by staff. FSA also reported to the OIG that the timeline for completing the analysis and issuing a final report is based on the complexity of the review and has no established timeline.

c. Have you taken steps the IG recommended to reassess and improve this process?

As a result of the OIG's recommendations, FSA has agreed to the following in the Corrective Action Plan for the Audit: "FSA will reassess whether the current total time allotted to perform a program review is adequate to complete and document all required procedures. The resulting recommendations will be presented in a white paper to senior management for review." FSA completed a reassessment of the time it takes staff to complete the review. The results indicated the timeline allocation was sufficient for conducting field work with the proper preparation by staff. FSA also reported to the OIG that the timeline for completing the analysis and issuing a final report is based on the complexity of the review and has no established timeline.

23. The IG found that FSA was not prioritizing schools with high dropout rates - a statutory requirement under HEA Section 498A. FSA also disagreed with the IG recommendation that it consult with the National Center for Educational Statistics to help it appropriately identify dropout rates for use in program reviews. Will you take steps to fulfill this statutory requirement? Will you implement the IG's finding and consult with NCES?

Currently, we do not have data that specifically identify a school's dropout rate. In its place, FSA has used a combination of Integrated Postsecondary Education Data System (IPEDS) completion rates and NSLDS data for Title IV recipients who graduated and withdrew to identify schools with a high dropout rate; we have been doing so since 2013. We disagree with the OIG's assertion that our methodology is not a reasonable approximation of annual dropout rates. Further, the data we are using are available now, without imposing an additional reporting burden on schools or the additional costs that the Department would incur from modifying the IPEDS survey. However, we are in the process of consulting with both the OIG and NCES to determine if improvements can be made to our use of existing data and if the benefit of modifying the IPEDS survey would outweigh the costs to both schools and taxpayers.

24. To ensure greater transparency of the process for how FSA selects schools for program reviews, will FSA disclose to the public, or an independent third-party like the IG, the annual the criteria and weighting used in selecting schools for review?

Providing the selection criteria to the public would jeopardize the integrity of FSA's oversight process by providing information to the exact schools that we are reviewing that could assist them in avoiding our efforts to identify non-compliance. The selection criteria and resulting program reviews are examined as part of our annual A-123 Audit conducted by an independent auditor that assesses FSA internal controls and as a component of the improper payment assessment. This is an independent audit of FSA. FSA also has provided to the OIG and GAO, upon request, all of its policies and procedures used to select schools for program reviews.

25. Please share with the Committee FSA's standard for how long a program review should take to complete from start to finish? Is this standard communicated to school? How does FSA ensure that it conducts program reviews at a time that is not going to burden a school (i.e., during peak processing)?

FSA's internal timeline for issuing a program review report is 90 days. However, that timeline can be impacted by a number of factors, such as the complexity of the review and other competing priorities. Issuance of the final program review determination also is dependent on the complexity of the review, the timethe institution needs to provide its response, and in some cases, coordination with other offices within the Department regarding additional guidance.

FSA works with institutions to ensure that the timing of a program review does not occur during critical periods that would create undue administrative burden, such as during peak

activities. On multiple occasions FSA has worked with the school to schedule or if necessary reschedule a planned program review.

26. The Higher Education Act provides FSA with procurement flexibility that can be seen as surpassing what is provided through the Federal Acquisition Regulation.

a. In your opinion, are these flexibilities necessary?

FSA's procurement flexibilities include:

i. Use of simplified acquisition procedures for non-commercial small business set-asides valued at $1 million or more when the expected value of any supplies is not expected to exceed 20 percent—other Federal Acquisition Regulation System (FAR) based agencies have no comparable authority;

ii. Flexible wait periods and deadlines for the submission of offers of non-commercial items—other FAR-based agencies are required to post a notice of a proposed action 15 days before issuance of a solicitation for non-commercial items, and provide for a minimum 30-day response period;

iii. Use of simplified acquisition procedures for commercial items without dollar limitation or expiration of the authority as authorized under the Clinger-Cohen Act of 1996—other FAR-based agencies may also use simplified acquisition procedures for commercial items with a current dollar limitation of $7 million, also without expiration;

iv. Ability to meet the needs for systems development incrementally by competitively awarding the first module of the system, and then either competitively awarding additional modules or awarding those modules on a sole source basis, all provided that each module is independently useful or adds value to the preceding module(s)—other FAR-based agencies may use modular contracting, with the same limitations, but there is no provision in regulations to buy successive modules on a sole source basis absent a justification and approval for other than full and open competition; and,

v. Ability to conduct a competition in two phases; other FAR-based agencies may use a two-phased approach, where vendors not invited to submit an offer in the second phase may still submit an offer in the second phase, unlike FSA's authority where exclusion from the first phase excludes the offeror from submitting a proposal in the second phase.

Items (i) and (ii) in the preceding list are minimally used by FSA as almost all of FSA's acquisitions are for commercial services. While item (iii) is used, it is primarily used for software purchases; use of (iii) saves considerable time in the award process, enabling FSA to quickly acquire software needed to prevent disruptions in system operations that deliver student aid. While FSA does not currently use (iv), FSA does see a potential for

its use, provided there is a mechanism to appropriately capture its use. FSA does use (v) for most large servicing contracts.

In the first phase of (v), vendors are asked to provide general information on conceptual approaches and price, past performance, and capacity to perform. The Contracting Officer determines those vendors most likely for award, and limits the number of vendors offered the opportunity to submit a full technical and price proposal in the second phase. The second phase is conducted in the same manner used by FAR-based agencies for a negotiated purchase. FSA finds the use of the two-phased source selection effective in identifying vendors that have the greatest opportunity for award early in the process. Thereafter FSA can focus on reviewing technical and price solutions from only those vendors with a high likelihood of success. As reported by the vendors, this approach saves companies money in respect to bid and proposal costs when there is not a reasonable expectation for award, and this approach also saves FSA time when full proposals are only reviewed from those vendors that stand a reasonable likelihood of award.

b. What is the most compelling reason for keeping the current framework?

Although FSA was envisioned as operating similarly to a commercial enterprise, FSA's adherence to the FAR limits its ability to operate most efficiently. FSA's procurement flexibilities differ minimally from what is identified in the FAR. If Congress truly intends for FSA to operate as a commercial enterprise, exemption from the FAR, not unlike the exemptions provided to the Federal Aviation Administration or the United States Mint, might drive FSA to greater efficiencies and more effective delivery of public services.

c. What modifications to statute do you think may be necessary?

The Department of Education has not developed a recommendation at this time.

27. In recent years, FSA has displayed a pattern of contracting habits that are not in keeping with the efficient, private-sector-like contract execution that statute envisions. For example, after experiencing a "seven month set back," FSA recently requested emergency clearance from OMB to rush through an information collection called the *Data Challenges and Appeals Solution*. Contracting challenges associated with management of the DMCS are well-documented. Do you think FSA is executing contracts in keeping with what the HEA envisions? Can FSA do better? Does FSA deserve the flexibilities it has been granted if it demonstrates these types of patterns?

While the HEA grants limited procurement flexibilities, it does not eliminate the need to adhere to all other applicable statutes and regulations in executing federal contract agreements. FSA has leveraged the limited procurement flexibilities with success on numerous contractual agreements. Indeed, many vendors have provided feedback to FSA that the process by which we enter into these contractual agreements, frequently leveraging those available flexibilities, are exemplary and these vendors express their desire for other agencies to follow suit. There are always opportunities for improvement, and FSA continually seeks to

do so. The challenges associated with DMCS were not contractual in nature; rather, the challenges were experienced in the execution and implementation of the system requirements.

28. Does FSA have formal process or procedures in place to manage contract change requests, specifically, when making a change request, do you provide contractors with full requirements before contractors are expected to submit pricing and timing?

a. When issuing change requests, what is an average turnaround for a change request? Does FSA allow contractors to adjust their pricing, especially when it's given in a short tum around scenario?

FSA has a formal change management process in place. Generally, FSA provides a description of the change(s) requested and seeks an initial assessment from the vendors to include impact, estimated schedule to implement and estimated hours to implement. After receipt and review of the impact assessment, if necessary, meetings are held with vendors to discuss questions. Then a request for proposal is made and vendors generally have three to five business days to respond.

Fundamentally, there are two types of change requests in the FSA process; the normal change request and a quick-pace change request. The normal change request process allows five business days to respond, while the quick pace change request allows two business days to respond.

b. How many contract change orders does FSA issue on an annual basis for student loan servicers? Will you please provide this information to the Committee?

There is a difference between a change order and a change request. A change order is a written order signed by the contracting officer, directing the contractor to make changes that the Changes clause authorizes the contractor officer to order without the contractor's consent. The Changes clause dictates the process and timeline for negotiating changes with the contractor. A change request responds to needs to make aid delivery system modifications. The change request process is authorized by the terms of the contract and FSA change management process. Based upon the line of questions contained herein, FSA is providing an average number of change requests issued on an annual basis under the servicing agreements. Reviewing the past two years, on average, there are approximately 100 change requests, per contract, issued annually, many of which are legislatively-driven changes.

c. Has FSA ever studied the costs to your contracting force associated with these change orders?

FSA has not conducted a formal study to determine either the average cost to process a single contract action or the average cost to vendors to process a single contract action.

d. Do you, and your staff, have time to read all the information that is returned to you for these change orders?

FSA has teams of individuals, which varies depending upon the type of change request made, that reviews the information submitted as part of the change request process.

29. The GAO found that: "As a result of limited planning and oversight, Education was unable to provide most borrowers who completed loan rehabilitation with timely benefits, such as removing defaults from their credit reports, for more than a year following the October 2011 upgrade of its defaulted loan information system." Did you receive a bonus, or a lower bonus as a result of these shortcomings, during this timeframe – October 2011 through October 2012? If so, how much? Was it warranted given what borrowers were going through?

The Department was acutely aware of the various challenges that borrowers who had successfully completed loan rehabilitation faced in late 2011 and into 2012 while the upgrade of the Debt Management and Collections System (DMCS) was in progress. In my March 12, 2014, testimony before the House Education and the Workforce Committee's Subcommittee on Higher Education and Workforce Training, at a hearing entitled, "Examining the Mismanagement of the Student Loan Rehabilitation Process", I acknowledged the delays and disruptions to the loan rehabilitation process and accepted "full responsibility.". As part of those proceedings, I outlined the steps that FSA took to mitigate the problems for borrowers and to restore key functions. For example, during the period when loan rehabilitations were delayed, FSA established borrower relief initiatives through which we manually cleared credit histories and re-established Title IV student aid eligibility for more than 8,000 borrowers who were eligible for loan rehabilitation. The DMCS's loan rehabilitation functions were fully restored in April 2012, and the backlog of borrowers whose loan rehabilitation was delayed was completely resolved by January 2013.

FSA self-reported a material weakness associated with the DMCS system conversion in the Department's FY 2012 Annual Financial Report and FSA's FY 2012 Annual Report. This material weakness was an aggregation of the control deficiencies, some relating to the rehabilitation process. The Department's Inspector General agreed with FSA's self-assessment and reported a material weakness in its audit of the Department's and FSA's FY 2012 financial statements. During FY 2013, FSA aggressively addressed these control deficiencies and made significant progress in fixing them. As a result, the Department eliminated that material weakness in FY 2013, and the Department and FSA once again have no material weaknesses on their financial statement audits.

A new contractor took responsibility for the Debt Management and Collections System on August 1, 2014. This contract includes strong financial incentives for satisfactory performance. Since the new contractor assumed responsibility, nearly 100 percent of borrowers with Direct or Federal Family Education Loans that successfully complete their loan rehabilitation program are transferred to a non-defaulted loan servicer within one week of eligibility to do so. Since July 2014, an average of 28,000 defaulted borrowers in FSA's portfolio has successfully completed a rehabilitation program each month. Finally, FSA's

independent financial statement audit and A-123 reviews have not identified any material control weaknesses for DMCS since the new vendor assumed responsibility in 2014.

As stipulated in the HEA, FSA's Chief Operating Officer may receive a performance bonus in an amount that does not exceed 50 percent of his or her annual rate of basic pay, based upon the Secretary's evaluation of the Chief Operating Officer's performance in relation to the goals set forth in the Chief Operating Officer's performance agreement. My FY 2012 annual performance agreement is published on the FSA Data Center in compliance with 20 U.S. C. § 1018 (d) (4) (B). While not discounting the challenges borrowers encountered and the subsequent culpability of the organization, the Secretary's holistic assessment of my performance against the goals in my FY 2012 performance agreement was judged as warranting a performance rating qualifying for a performance-based bonus. For FY 2012, the only FSA staff members eligible for performance-based awards were those rated at the High Results Achieved and Exceptional Results Achieved performance levels.

FSA's Annual Report historically provides disclosure information on the ratings and bonuses of both the Chief Operating Officer and senior managers at FSA. Being that the Annual Report is required to be published on or before November 15 of each year and considering that the performance evaluation cycle and related awards for all General Schedule, Administratively Determined and Senior Executive Service employees are not yet complete by that time, such disclosures are provided in the subsequent year's Annual Report. Disclosures regarding performance ratings and performance awards for FY 2012 can be found on page 72 of the 2013 Annual Report.

The Department does not release specific performance award amounts for individual employees. That information is protected from release since its release would be an unwarranted invasion of personal privacy since it can be used to identify individual performance ratings. Individual employee performance ratings are protected under the Privacy Act of 1974, and any disclosure of that information may only be done in a manner consistent with the Act.

30. How do you and the Secretary set performance goals, for which bonuses are based? Who do you consult when formulating these goals? Do you consult stakeholders such as NASFAA? Do you set these goals internally?

The establishment of performance plans is guided by the goals, objectives, and metrics of FSA's Five-Year Strategic Plan, which undergoes a stakeholder review process. Each year, every FSA employee must establish a results-oriented performance plan that captures the needs of the office and our customers, as we have determined at that point in time from a variety of observations, input, data, and other information gleaned from our work. The employee works together with his or her supervisor to develop his or her plan. The supervisor then sends forward the performance plan to their approving authority for a second level of approval. Outside stakeholders are not consulted on Federal employee performance plans.

31. To help the Committee better understand the bonuses being offered to FSA staff, please provide the Committee with a complete listing for the last three fiscal years

that includes: the titles of individuals eligible to receive bonuses, corresponding performance ratings, and corresponding salary and bonus information?

The Department does not release specific performance award amounts for individual employees. The release of such information would constitute an unwarranted invasion of personal privacy since it can be used to identify individual performance ratings. Individual employee's performance ratings are protected under the Privacy Act of 1974, and any disclosure of that information may only be done in a manner consistent with the Act. Over the period specified in the committee's inquiry (FY 2013-2015), the only FSA staff members eligible for performance-based awards were those rated at the High Results Achieved and Exceptional Results Achieved performance levels.

FSA's Annual Report historically provides disclosure information on the ratings and bonuses of both the Chief Operating Officer and senior managers at FSA. Being that the Annual Report is required to be published on or before November 15 of each year and considering that the performance evaluation cycle and related awards for all General Schedule, Administratively Determined and Senior Executive Service employees are not yet complete by that time, such disclosures are provided in the subsequent year's Annual Report. Disclosures regarding performance ratings and performance awards for FY 2013 can be found on page 68 of the 2014 Annual Report, and, similarly, those for FY 2014 can be found on page 67 of the 2015 Annual Report. Consistent with past practice, FSA will disclose the FY 2015 performance rating and award information as part of the FY16 FSA Annual Report. To protect the privacy of individual employees, disclosures in the FSA Annual Report provide aggregate totals of the annual performance ratings and ranges for the applicable performance awards tied to those differentiated performance levels for all FSA Senior Managers and Senior Executive Service members.

32. **Defaulted borrowers can pay as little as $5.00 per month to rehabilitate their student loans out of default, which has impacted the ability of guaranty agencies to sell rehabilitation loans to willing lenders. In short, few lenders are willing to purchase those loans since they believe that many of those borrowers may re-default. Yet the Department of Education, including FSA, has been slow to allow agencies to assign rehabilitation loans when they cannot find private sector buyers, *as required by the Bipartisan Budget Act of 2013.***

    a. **Congress passed this requirement in December 2013, stating it was to be implemented by July 1, 2014. There still is no guidance to implement this issue two years after passage. Why is the Department so far behind on this issue?**

    Until early 2015, no guaranty agencies had contacted the Department seeking to assign rehabilitation loans that could not be sold through the commercial market. Since being notified that agencies wished to sell rehabilitations to the Department, we conducted a competitive procurement among the Title IV Additional Servicers, awarded a contract to develop an automated assignment process, and conducted extensive outreach with guaranty agencies to share information and prepare to test the new assignment process.

System and process testing is complete, and we expect functionality to be in place early in 2016.

b. **Do you know how many lenders are currently buying rehabilitation loans from guaranty agencies?**

In order for a guaranty agency (GA) to collect their fee for rehabilitating a loan, the loan must be sold to a lender. In FY 2015, GAs were paid for the rehabilitation of $6.2 billion in loans, compared to $5.2 billion in FY 2014. GAs are not required to inform us of the names of the lenders to whom they are selling the rehabilitated loans, however, we are aware of at least seven lenders who were purchasing rehabilitated FFEL loans during FY 2015.

c. **Do you know how many guaranty agencies are funding these loans out-of-pocket, or how many are being forced to tell borrowers that their loans cannot be rehabilitated because you have not yet created a process for loan assignment, as Congress directed?**

Guarantors are not allowed to buy a loan which is eligible for rehabilitation. Any unsold loan would remain an asset of the federal Government until it is sold to a FFEL lender. We are not aware of any borrowers who have been told that their loan cannot be rehabilitated as a result of delays in developing a process to assign rehabilitated FFEL loans to the Department.

d. **What impact will this delay have on borrowers who are trapped in the rehabilitation pipeline?**

Borrowers who have completed the requirements for loan rehabilitation must continue to make payments to guaranty agencies until their loans have been sold or assigned to the Department. Until that point, borrowers generally do not receive the benefits of rehabilitation, such as the re-establishment of eligibility to receive additional Title IV student assistance and the removal of the default status from their credit history, though there are ways to alleviate these negative consequences. It is not uncommon for there to be delays in completing loan rehabilitation sales on the commercial market.

33. **According to recent figures released by the U.S. Department of Education, the delinquency rate on Federal Direct Loans was 21.7 percent as of September 30, 2105, with more than 180,000 additional borrowers more than three months late on their payments compared to last year. The number of student and parent borrowers in default continues to increase even with the growth of income-based repayment plans; for example, more than 7.6 million people had not made a payment on their student loan in at least nine months, a seven percent increase over the same period a year earlier. The amount of people whose loans have been transferred to collection agencies or debt management alone has more than doubled in the fiscal year ending in September, climbing from 60,000 to 140,000 people. In contrast, according to MeasureOne, an independent researcher, the rate of early and late stage delinquency**

rates for borrowers with private loans averaged 3.0% and 2.3%, respectively, with year-over-year declines of approximately 13% each. The charge-off rate, similar to the default rate, is at a low of 2.7%. And at any given time, approximately 75% of private loans are in active and actual repayment. What can the federal government, specifically FSA, learn from the efforts of the private sector?

FSA data indicate, first, that while the number of Direct Loan (DL) recipients with loans in servicing that are more than 30 days delinquent increased year-over-year, the number of DLDL recipients with loans in active repayment increased by far more; by well over two million recipients. This is why the active repayment delinquency rate by recipient count declined from 24 percent to 21.7 percent year-over-year. As of December 31, 2015, that figure is down to 19.7 percent. Second, from the FSA Data Center loan status reports' data, it is not possible to obtain a combined total recipient or borrower count across DL and FFEL; there are many borrowers with loans in both programs. Approximately seven million recipients had DLs and/or FFELs in default as of September 2015. While we do not have this analysis for each quarter, it provides some idea of the difference from the 7.6 million duplicated recipient count. Third, the category, "Loans Transferring to the Debt Management and Collections System (DMCS)," does not reflect the loans transferred to DMCS that quarter. Instead, it represents the loans in that bucket as of that quarter. The number of loans in this bucket at any given time reflects factors other than the number of defaults occurring in recent weeks. Over time the transfer process may be slower or faster, and the queue may be longer or shorter. In other words the data center's portfolio reports reflect status as of a certain time. These are stock reports, not flow reports. FSA is working on the development of a report that will present the flow of new DL defaults by quarter.

FSA continuously strives to learn from and adopt industry best practices. However, there are significant differences between private education lending and federal lending. The delinquency and charge-off rates for private education loans reflect, in large part, the tight underwriting criteria implemented by lenders since 2008. Federal student loans are part of a larger social investment program of federal student aid under the HEA, where federal student loans do not have underwriting criteria. Private education loans offer limited opportunities for deferment and forbearance compared to Federal loans, private lenders charge off defaulted loans rather than keeping them on the books as FSA does, and private lenders—in addition to underwriting—only lend to highly selective institutions. FSA is in the early stages of looking at a "rolling" annual default rate, similar to the private charge off rate, which may result in a comparable rate of flow into default as seen in private lending.

34. **Statute sets forth a framework that gives FSA independence from the rest of the Department, and makes you responsible for administering all functions- including those related to IT. However, this could prove problematic when it comes to IT issues, and is certainly counter to the authorities FITARA provides agency CIOs.**

    a. **How frequently do you physically meet with the Agency's CIO? Is the FSA CIO in these meetings? How often do you speak via phone?**

I meet with the Department's CIO at least monthly, and at times, more often to discuss current and planned operations. In addition, FSA's CIO and the Department's CIO speak frequently via telephone and in-person about all matters of current interest, and they include each another in e-mails of mutual interest. In the aggregate, FSA's CIO and I communicate with the Department's CIO frequently during the week. I do not believe that the operational independence contemplated and afforded by the PBO statute is at odds with or in competition with the newer FITARA statute. What the two seemingly have in common, among other things and at a high level, is a congressional intent to assure that the Department's IT management and operations work fluidly and cooperatively. I believe that the manner in which the Department's CIO and I, along with a well-functioning relationship between the Department and FSA CIOs serves the intent well. I am further encouraged by our continuing commitment to work together to make the best decisions we can to improve the Department's IT management and overall cybersecurity posture. In my opinion, FITARA is another useful tool to help ensure the highest level of quality in our efforts.

b. Do you consult with the Agency's CIO before you procure an information technology investment? When formulating budget requests? Annual work plans and goals?

FSA planning, operating and budgeting staff work directly in and through the Department's processes for planning, funding, implementing, and (as appropriate) occasionally sharing information technology resources. FSA information technology investments are coordinated with the Department's CIO to minimize duplication of resources and effort, and to look ahead to ensure optimal effective cross-functional impact of FSA and Department spending. FSA budgets are planned and formulated in coordination with the Department and are part of the overall Department budget request. Annual work plans and goals are coordinated to ensure funding is efficiently used without duplication, and to ensure FSA and the Department can meet their separate and their linked goals according to their respective schedules. Also, as part of the Department's FITARA execution plan, the Department's CIO now will be a voting member of the FSA Investment Review Board, with veto authority over every IT investment decision.

35. The CIO reports on the Federal IT Dashboard that the Virtual Data Center contract expires in August 2016. Is the Agency CIO handling these contract negotiations? Are you? The FSA CIO? Who is the primary owner of this re-competition process?

FSA awarded the Virtual Data Center (VDC) contract on September 1, 2006, as an Indefinite Delivery, Indefinite Quantity contract with a 10-year ordering period ending August 31, 2016. The current VDC Task Order (22), awarded September 28, 2015 is scheduled to expire August 31, 2016.

As part of the VDC re-competition planning process, the FSA CIO formed a FSA VDC executive steering committee (VDC ESC) in November 2014. The Department of Education CIO (ED CIO) serves as a principal member. Other VDC ESC members include: the ED

Deputy CIO, FSA CIO, FSA CFO, FSA Deputy COO, and FSA Head of Contracting Activity. The VDC ESC approved the approach to procure a hybrid cloud-based service delivery model and the data center services transition plan, and convened monthly to receive status updates from the VDC program manager and FSA contracting officer on competition strategy and schedule.

In May 2015, FSA released a solicitation/Request for Quotation under the National Institutes of Health Information Technology Acquisition and Assessment Center Chief Information Officer Solutions and Partner 3 Government Wide Acquisition Contract (NITAAC's CIO-SP3 GWAC). On September 25, 2015, the FSA contracting officer issued Hewitt Packard Enterprise Services (HPES) a competitively awarded Task Order under HPES' NITAAC CIO-SP3 contract. The FSA Task Order will support the transition to and operation of FSA's Next Generation Data Center (NGDC). HPES will provide hybrid/private cloud services and hosting services for business applications and services necessary to manage the Federal Government's Student Grant and Loan Programs. Services include transition, facilities, hosting, storage, help desk, mainframe, network, and IT security.

FSA is currently working with the new NGDC Contractor to begin developing the Transition Plan. The VDC ESC also will provide leadership and direction during the critical transition period.

36. OMB's new FISMA guidance provides a framework for agencies to define a "major" information security incident that must be reported. OMB did extensive agency outreach when developing their framework to define a "major incident."

a. Did FSA submit any questions/comments to OMB through the Agency's CIO?

FSA provided comments to the Department CIO, whose office incorporated them into the Department response to OMB.

b. Did FSA provide any input directly to OMB?

FSA did not provide input to OMB. All input was provided through the Department CIO.

c. Will FSA's definition of "major incident" differ from how the Department defines "major incident?"

FSA's definition of "major incident" is exactly the same as the Department's, because FSA works entirely within the security policies and boundaries of the Department.

37. In September 2014, the Council of the Inspectors General on Integrity and Efficiency Cloud Computing Initiative found that federal agencies "have not fully considered and implemented existing federal guidance, the agencies' policies, and best practices when developing requirements for cloud computing contracts." When FSA is considering procuring a cloud computing technology, do you involve the Agency CIO

at the time an IT investment is procured to ensure all cloud service contracts are compliant with federal guidance? Please describe this consultation process.

Yes, FSA always involves the Department's CIO before the procurement is made, and always ensures any cloud services contract is fully compliant with Federal guidance and Department policy.

FSA and its Technology Office participate in the Department procurement process. All IT investments are included in FSA's budget, and investment funding levels are reviewed by the Department Investment Review Board; the Department's CIO is a member of that Board. If the IRB approves the proposed cloud computing services procurement, and if it is funded through the annual budgeting process, the procurement follows the Department solicitation and award process. The Department's CIO is party to the periodic reviews during procurement and implementation. Also, as part of the Department's FITARA execution plan, the Department's CIO now will be a voting member of FSA's Investment Review Board, with veto authority over every IT investment decision.

The director of enterprise architecture in the FSA Technology Office ensures that any proposed cloud services are consistent with existing and planned technology. This ensures optimal interoperability of information technology resources in FSA and the Department.

38. The Higher Education Act tasks FSA with integrating IT systems. Do you believe that the IT systems that support financial aid programs are FULLY integrated?

The IT systems supporting financial aid programs are fully integrated in their ability to process, to exchange, and to use all of the data necessary to fulfill FSA's mission.

FSA implemented and maintains the Enterprise Service Bus, a mature data exchange architecture and infrastructure, which enables the timely and accurate flow of data between FSA's core business systems, such as the Free Application for Federal Student Aid (FAFSA), Central Processing System (CPS), Common Origination and Disbursement (COD), National Student Loan Database System (NSLDS), Debt Management and Collection System (DMCS) and the servicers. The primary data integration strategy used by FSA is implemented through the use of real-time message transformation and batch file exchanges. FSA's infrastructure and architecture for data exchange is extremely mature and has been constantly upgraded over time.

Several web services and external Application Programming Interfaces (APIs) have been developed to enable both internal and external entities to consume or share data with FSA. The systems also are integrated at the network level and can communicate in real-time or in batches, as we have designed them to do. These proven technologies have been used by FSA for years without problems.

In some cases, older systems have been modernized to replace current state systems that performed those functions separately. Examples of these modernized, integrated systems include, but are not limited to, the following:

- Integrated Student Experience (ISE) (StudentAid.gov) serves as FSA's main student and parent-facing interface, providing a centralized information repository for Federal student aid and consolidating content from four separate FSA sites (Ombudsman.gov, College.gov, FederalStudentAid.ed.gov, and StudentAid.ed.gov). The implementation of the ISE enabled FSA to decommission multiple disparately designed customer-facing websites. ISE provides a seamless customer experience for students, parents, and borrowers with information related to financial aid, repaying student loans, applying for Federal aid, and navigating through the college decision-making process.

- FSA re-engineered its business processes and merged the process of consolidating loans into current processes. The CODsystem now processes the promissory notes, and the Title IV Additional Servicers (TIVAS) serve as the disbursing and servicing agents, enabling FSA to phase out the Direct Loan Consolidation System (DLCS) origination process and system by June 30, 2016.

- FSA implemented the Enterprise Data Warehouse and Analytics (EDWA) solution, which follows industry best practices to consolidate data into a centralized data warehouse for integrated data reporting purposes. EDWA delivers on a request from the White House, OMB, Treasury, GAO, and the Department, among others, to help improve higher education data and increase the Department capacity to utilize these data to inform policy and management by allowing for deeper analysis of the federal student loan portfolio and borrower behavior. FSA is planning to incorporate Aid Data Mart (ADM) requirements into EDWA, currently targeted for deployment in mid-2017.

- The Data Challenges and Appeals Solution (DCAS) will begin to assume the functionality of FSA's Electronic Cohort Default Rate and Appeals (eCDRA) system and finalize implementation of Gainful Employment (G/E) challenges, tentatively by the end of FYFY 2016. Once integrated, DCAS will serve as the single source for student-level data challenges associated with FSA-produced metrics.

- Integrated Partner Management (IPM) will provide improved eligibility, enrollment, and oversight processes used to manage partner entitities as they administer Title IV financial aid for students. IPM replaces four separate legacy systems and applications, including the Enterprise Records Management System (ERMS), Postsecondary Education Participants (PEPS), ezAudit, and the Electronic Application (EAPP) and is currently in development and targeted to go into production in 2017.

39. Can all contractors and stakeholders that need to communicate data with each other able to do so efficiently - for example, through sharing data through standard formats?

FSA implements the efficient exchange of data between contractors and stakeholders through standard data formats that are continuously reviewed, updated and improved in order to fulfill FSA's mission.

To enable all of FSA's IT systems to communicate, exchange, and share data with each other efficiently, FSA employs a powerful, encrypted, assured message transport mechanism through its Enterprise Service Bus (ESB). The ESB provides technology used across the industry by banks, the Federal Reserve, and other financial and public institutions similar to FSA.

The ESB is FSA's trusted mediator for all system-to-system communication, providing support for managed file transfers, real-time (message-based and web services) message transfers and message transformation services. ESB promotes consistent and proven ways of communication among systems and enables a uniform and consistent way to provide technical support.

For example, ESB provides multiple interface patterns to allow the COD system to interoperate and communicate with other FSA systems using standard formats and protocols, including the NSLDS, Financial Management System (FMS), Central Processing System (CPS), PEPS, TIVAS, Participation Management (PM), the future IPM systems, as well as thousands of external trading partners, including Schools, Title IV Servicers, and Guaranty Agencies (GAs).

ESB interfaces are based on service-oriented architecture (SOA) principles, which allow for reuse of application services.

ESB ensures that FSA systems are able to communicate without the requirement to tightly integrate with proprietary vendor products or rarely-used proprietary protocols. Applications use the same method to exchange data with each system, rather than having to implement application-specific integrations.

Furthermore, the use of XML and the development of several web services and external APIs have been provided to enable both internal and external entities to easily consume or share data with FSA, furthering federal efforts to increase data transparency.

40. Are the information systems that FSA and its contractors use to communicate to each other using encryption? Encryption at rest?

FSA and contractor information systems communicate to each other using encrypted transmissions. Data at rest in the form of backup tapes are encrypted.

41. Does the statutory goal of "integrating IT systems" still make sense? As Congress looks to reauthorize the HEA, what should the IT goal before FSA be?

Federal Student Aid has made great strides in integrating its systems to share, exchange, and utilize data across systems to deliver student aid programs. While the systems remain separate and distinct, many new data feeds have been put in place that assist in improving aid delivery. For example, real-time data exchanges have been put in place that allow pre-population of on-line applications, repayment plans, consolidation of loans, and exit

counseling. Data sharing across systems has made it possible to better track programs and provide oversight. Federal Student Aid has also created an analytical data warehouse that contains data from several systems organized to facilitate analysis without impacting program and system operations.

More broadly, we believe our information technology goal should be to structure our systems, automated processes, and data to maximize efficiency and ease of use for students, schools, and borrowers while ensuring the highest levels of security and cost efficiency. As technology and cybersecurity requirements change, the best way to meet this goal is likely to evolve.

42. **Statute also tasks FSA with implementing "an open, common, integrated systems for the delivery of student aid programs." Does the statutory goal still make sense? What changes are needed?**

As indicated in the response to the previous question, we believe as technology changes, so, too, will the best way to meet statutory goals related to integrated systems that enable the delivery of student aid programs.

43. **In June 2015, the IG reported to FSA's COO, Mr. James Runcie, "FSA did not close audits timely and did not adequately maintain documentation of audit follow-up activities." The IG concluded this because FSA *only closed 1 of 36 external OIG audit reports* in the timeframe spanning October 1, 2008 and September 30, 2013. The total of the monetary recommendations associated with the 36 resolved audits was $1.3 billion."**

a. **Has FSA closed these external audits since the IG issued its June 2015 report? If not, when can we expect these audits be closed?**

Yes, FSA has closed 19 out of 21 audits for the School Eligibility Service Group. For the remaining two audits that are not closed, one has an eight-year repayment note and cannot be closed until the liability is repaid fully on May 1, 2018. The resolution of the second audit is on appeal to the Secretary.

In addition, seven out of eight Financial Institution Oversight Service audits have been closed with the exception of one, which is nearing settlement.

Resolution of the remaining audits has been impacted by pending litigation, settlement negotiations, and the OIG's concurrence.

b. **The IG found that audits are taking years to be closed out. As of March 2014, 69% of these external audits were not closed for more than *two years* and 36% for over *four years*." Why is it taking so long for FSA to close out these audits?**

In the majority of the cases identified during the audit, the corrective actions to close the audits had occurred, but the documentation had not been provided to the appropriate

office to officially close the audit in the Audit Accountability and Resolution Tracking System (AARTS). This was evidenced by the fact that 90 percent (representing 26 out of 29 audits) were closed by the time the final report was issued. Resolution of the remaining audits was impacted by pending litigation, settlement negotiations, and the OIG's concurrence. FSA is dedicated to ensuring that all audits are resolved in a timely manner and is proceeding accordingly.

c. **The IG further found that FSA "did not adequately maintain and was not always able to provide documentation that showed requested corrective actions were completed or were being monitored for completion." What is FSA doing to clean-up its documentation process?**

In the majority of the cases identified during the audit, the corrective actions to close the audits had occurred, but the documentation had not been provided to the appropriate office to officially close the audit in AARTS. This was evidenced by the fact that 90 percent (representing 26 out of 29 audits) were closed by the time the final report was issued. Resolution of the remaining audits was impacted by pending litigation, settlement negotiations, and the OIG's concurrence. FSA is dedicated to ensuring that all audits are resolved in a timely manner and is proceeding accordingly.

44. **For the period ending September 30, 2015, the IG reported that FSA has not yet resolved 7 audits that include 84 recommendations for corrective actions and monetary recommendations totaling more than $47.3 million. When can the Committee expect these recommendations to be fully addressed, and these audits closed?**

All seven of these audits are being actively addressed and progressing towards closure. Closure is dependent upon the institution resolving corrective actions and/or payment of assessed liabilities.

45. **A March 2014 GAO report found that the Department has not used the National Directory of New Hires to assist with collections since 2010. This database could help strengthen FSA's program integrity efforts by assisting with collections.**

a. **Why is FSA no longer using this database?**

Data from the National Directory of New Hires (NDNH) was available for use in student loan debt collection under a Computer Matching Agreement between the Departments of Education and Health and Human Services (HHS). This agreement expired in 2010 as a result of legal issues regarding the legal authority for the Department and its contractors to redisclose NDNH data in the event of third-party court actions or subpoenas.

b. **What steps is FSA taking to re-establish use of this resource? When can we expect this database to again be utilized?**

Since 2010, the Offices of the General Counsels of the two agencies have worked with the Office of Management and Budget to resolve these issues and develop procedures to ensure

that NDNH data can be available for use without violating the underlying legislation that authorizes its collection. These procedures will require system and process changes to the Debt Management and Collection System that have not yet been scheduled. In the interim, FSA and its collection vendors have developed alternative methods to locate borrowers and maximize collections, which have contributed to record collection totals for the each of the past three years.

46. **The Department, largely through FSA, asked Guaranty Agencies on June 8, 2015 to complete a NIST self-assessment by June 30, 2015-22 days later- and this deadline was then extended one month. In August, the Department sent Guaranty Agencies a contract amendment verifying their compliance with NIST standards- a contract amendment that had to be signed and returned in five days.**

    a. **What role did you play as COO in determining this timeline for self-assessment?**

    The FSA CIO presented a project schedule for performing the GA security self-assessment for the 28 GAs. I provided input on the activities and the amount of time before the project schedule was finalized.

    b. **What role did you play in issuing the contract amendments?**

    I participated in several meetings with the Department's CIO, the FSA CIO, the Department's Office of General Counsel, and the FSA program office to determine the language provided in the NIST amendment to the GA agreements.

    c. **What role did the Agency's CIO play in these management decisions?**

    On a weekly basis, the Department CIO reviewed all Department initiatives and schedules, including the Guaranty Agencies self-assessments. The Department CIO also monitored the project's progress reports and ensured the resolution by FSA of implementation issues during the self-assessment initiative.

    d. **What role did the FSA CIO play in these management decisions?**

    On a weekly basis, the FSA CIO briefed me, as well as the Department's deputy secretary and CIO. During these meetings, the FSA CIO provided a status on the progress of the GA security audit.

    The FSA CIO also met with FSA program staff, the Office of General Counsel (OGC), and other offices within the Department to develop language to amend the existing guaranty agency agreements requiring adherence to NIST controls moving forward.

    e. **Was this an adequate or reasonable timeframe for conducting self-assessments and signing contracts?**

I believe the schedule for completing self-assessments and signing security agreements was reasonable.

f. Do you, as COO, believe that all contract amendments signed are accurate?

I believe all contract amendments signed are accurate.

Responses by Mr. James W. Runcie
Chief Operating Officer
U.S. Department of Education

Questions from Chairwoman Virginia Foxx

Subcommittee on Higher Education and Workforce Training Hearing: "Federal Student Aid: Performance Based Organization Review"

1. **The IG, GAO, and NASFAA have all raised significant concerns with how FSA is serving borrowers, institutions, and taxpayers. What plans do you have in place to address these concerns? How can Congress have confidence in FSA's oversight and monitoring capabilities after hearing these concerns?**

   Both the Office of Inspector General (OIG) and the U.S. Government Accountability Office (GAO) are tasked with, among other things, promoting efficiency, integrity, and effectiveness in government. We believe these are vital responsibilities, and we welcome the oversight these offices provide, as it makes us better at fulfilling our mission.

   As recently as last year, the GAO praised the productive relationship it shares with the Department and lauded our commitment to making improvements to strengthen our programs and services. In recent years, the Department has implemented more than 90 percent of the GAO's recommendations, compared to the government-wide average of 80 percent. It should be noted that of the GAO studies currently underway at the Department, nearly half are entirely focused on FSA – the Department's largest principal office – and our administration of the Federal student aid programs, or they substantially involve FSA programs or operations.

   FSA has a robust framework of internal control, as confirmed by annual FMFIA/A-123A assessments and external financial statement audit results. We annually document and assess the effectiveness of our internal controls, constantly looking for opportunities to improve our operations. In FY 2015, FSA documented and tested 1,040 business process controls and 1,584 Information Technology (IT) system internal controls across 36 business processes (and sub-processes) and 18 IT systems, respectively. We assessed that 96 percent of the controls tested are designed and operating effectively. The remaining four percent are immaterial deficiencies for which we have established or are establishing corrective actions. FSA developed corrective actions to address all of the concerns raised by the OIG and GAO in their various audits and has implemented or is in the process of implementing each one.

   FSA is responsible for internal control across the student aid lifecycle, including aid awareness and application, delivery, institution participation, and servicing. This includes controls at FSA, including our vendors and service organizations, and controls at schools and other intermediaries, for whom we establish guidance, provide technical direction, and monitor for compliance with requirements. To this end, FSA has established significant oversight and monitoring capabilities. Oversight and monitoring controls annually assessed within the FMFIA/A-123 program include those, for example, within the following process

areas: student eligibility/FAFSA application processing; school eligibility services (institutional eligibility determination, method of payment, financial statement analysis, program reviews, and compliance audits); financial institution oversight (program reviews, including servicer reviews, and compliance audits); and loan servicer oversight.

For our loan servicers (TIVAS and NFPs), we have strengthened contract provisions requiring that each servicer engage an independent public accountant (IPA) or firm to annually perform SSAE16 audits to determine the effectiveness of their operational and system controls. FSA has similar requirements for large system contracts (e.g., the VDC and COD/TIVOD) to independently assess IT controls. FSA coordinates with these service providers to review and track to completion corrective actions taken to remediate any deficiencies identified.

More broadly, the testimony from GAO, OIG, and NASFAA fails to recognize how the Department's management of contractors enabled FSA to manage major transitions and dramatic growth in FSA's servicing portfolio stemming from the purchase of FFEL loans under ECASLA beginning in 2008 and the shift to 100 percent Direct Loans in 2010. To meet the aggressive timelines established in these statutory changes, which in both cases allowed less than six months between passage and implementation, FSA intentionally leveraged its vendors' commercial Federal student loan servicing systems and processes which ensured every student that sought a loan received it. As a result of these changes, and of the statutory earmark to provide servicing contracts to eligible and qualified not-for-profit entities, FSA successfully manages a complex multi-servicer environment that currently features ten separate vendors using four different servicing platforms. FSA and the contractors have worked under and consistently met highly aggressive development and implementation schedules, often imposed by statute or regulation, with significant attention to ensure that all practices are effective, efficient, and fair and increase borrowers' customer satisfaction.

As FSA moves forward with plans to implement new and sustainable initiatives such as REPAY, improvements are being made in oversight, inter-agency cooperation in consumer protection, and in services to borrowers. FSA also is implementing an Enterprise Complaint Management system from which data can be better used for issue detection and root cause analysis. We also are currently in the planning phase of a new student loan servicing acquisition; this effort, which we expect will begin in early 2016, will streamline and simplify servicing systems and processes to improve customer service, increase efficiency, and enhance the Department's ability to effectively oversee and monitor servicing operations.

2. **You testified that FSA would release its 2015-2019 Strategic Plan within the next month. Has FSA released its Strategic Plan for comments from stakeholders as it is required to do? If so, when and how was this solicitation made to various stakeholders, including NASFAA? If not, when will FSA request comments from all stakeholders?**

A draft version of FSA's FY 2015–2019 Strategic Plan was provided to stakeholders, including NASFAA, September 30, 2015, via an e-mail from StrategicPlan@ed.gov, an

official Department of Education e-mail account created expressly for this purpose. The e-mail (attached below) included a copy of the Strategic Plan and a signed letter by me. In accordance with Section 141(c)(1)(B) of the HEA, recipients included organizations representing "students, institutions of higher education, Congress, lenders, the Advisory Committee on Student Financial Assistance, and other interested parties."

Federal Student Aid's Strategic Plan Fiscal Y

Federal Student Aid's Strategic Plan Fiscal Y

Federal Student Aid's Strategic Plan Fiscal Y

FSA's FY 2015–2019 Strategic Plan was published December 14, 2015, at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/FY1519StrategicGoals12042015.pdf.

3. **How does FSA use stakeholder comments it receives on the strategic plan? How frequently are changes made to strategic plans based on stakeholder feedback?**

Comments we receive are carefully considered and addressed through responses and changes to the Plan, as appropriate. The normal cycle for major updates to the strategic plan goals and/or objectives is, on average, every three to four years. And stakeholder feedback is solicited each time major updates to the plan are done.

4. **In his testimony, Mr. Justin Draeger of NASFAA stated FSA has stepped outside its purview by implementing operational procedures that, in effect, set policy. For example, going beyond the statutory and regulatory requirements to implement a statutory change limiting the length of time students could receive subsidized loans, FSA took it upon itself to require schools to report CIP codes for all borrowers, not just those borrowing a subsidized loan. Requiring this substantial amount of new data, with significant new burden and expense to institutions, falls within the realm of setting policy. Where do you believe FSA has this authority?**

One of the statutory requirements related to the length of time students could receive Direct Subsidized loans required the tracking of the borrower's enrollment at the academic program level (e.g., major). As FSA developed and implemented modifications to the institutional reporting requirements to meet this statutory requirement, it recommended to Departmental policy makers that institutions would be required to report program-level enrollment information for all Direct Loan borrowers and not for just those receiving a Subsidized Direct Loan.

The Department made this decision for two reasons:

(1) Requiring institutions to program their enrollment reporting systems (or those of its third party servicers) to distinguish between Direct Subsidized Loan borrowers and Direct Unsubsidized Loan borrowers would add a level of burden, confusion, and error. This is particularly true when the borrower's loan type changes, as happens often; and

(2) There is an ever-increasing need for policy makers, including those in the Congress, to have program level detail for all of the billions of taxpayer dollars provided under the Title IV student assistance programs. By having program level data for both Direct Subsidized and Direct Unsubsidized Loans, FSA will be able to provide policy makers with a robust set of data for policy and budget analysis.

5. **What actions has FSA taken to assure schools that were threatened with administrative capability findings because of their gainful employment reporting conflicts that they are now in compliance? Have all such threatened schools heard back from FSA? What actions is FSA still undertaking to inform schools about their compliance?**

   The Department continues to work with schools on a case by case basis regarding their GE reporting compliance and to address any data reporting issues that need to be addressed. On an ongoing basis, schools that remain non-compliant with the reporting requirement—either in-full or partially—are reviewed and appropriate steps taken.

6. **Have any schools experienced negative consequences of any kind because of failure to report gainful employment data on-time or correctly, including delays in the approval of new programs or locations or delays in recertification? Will you impose any sanctions, administrative actions, or any other consequences of any kind on institutions who did not report on time or correctly because of the significant lack of guidance given to schools?**

   As of yet, no school has been sanctioned as a result of not reporting or the partial reporting of GE data. Prior to any official sanctions or adverse actions being taken the Department is validating that the school meets the requirements to comply with the GE reporting requirements (e.g. some schools without actual GE programs have misreported the CIP and credential level on origination records creating the expectation of them to report). Application approvals were only delayed to confirm if the reporting requirement had been met or required to be met. As part of any application approvals, compliance with a number of Title IV regulations is reviewed during that approval process. Although the reporting deadline was July 31, 2015, the Department will give consideration to schools that ultimately reported data that could be included in the GE metric calculation. The Department worked significantly with schools throughout fall 2015 to assist schools that needed to comply with the GE data reporting requirement.

7. **The administration has actively supported and encouraged income-driven plans as an important repayment option for students and borrowers. When a borrower**

participates and is making payments in accordance with one of these plans, a borrower should be considered in "good standing" under their repayment agreement. Therefore, why does it appear as if the department is negatively treating these borrowers with regard to its new Scorecard loan repayment rate?

Students enrolled in income-driven repayment plans may, in some cases, be making on-time payments without actually making progress towards lowering the balance of the loan, because payments only cover the interest of the loan or because payments due are zero for those with sufficiently low incomes. The Federal income-driven repayment plans are a benefit designed to provide a safety net for such struggling borrowers, permitting them to remain in good standing while their incomes are low. At institutions where many such students are failing to make progress in paying down their balances, because their incomes are low, their loan balances are high, or both, the consequently low repayment rates may be indicative of a greater problem. For instance, completion of a college degree, as well as the value of that degree in the labor market relative to the debt required to repay it, are both closely tied to positive repayment outcomes; borrowers who complete college are three times less likely than their peers who drop out of school to default on their loans. Furthermore, because the Scorecard is designed to provide consumers with information critical to making smart college choices, the share of borrowers who fail to earn enough to pay down their loans, even in an IDR plan, is a useful measure. While we recognize that IDR plans are an essential balance, we also believe students deserve to know what they can expect when they leave college. The determination of what is contained within the Scorecard, ultimately, is a policy decision that is made by the Department.

8. **FSA officials say they are aware of issues with inconsistent credit reporting and are coordinating with other federal agencies on a review to better understand the impact of student lending on a consumer's credit score. Knowing that any specific action that will come from a review will take significant time to implement, when will the review be completed? How long will it take to create consistent guidance based on that review? How long will it take to disseminate the consistent guidance to loan servicers?**

We are continuing discussions with the Consumer Finance Protection Bureau and the Department of the Treasury and hope to have recommendations to standardize credit reporting for Federal student loans by spring of this year. This issue is complicated by the fact that standard credit reporting tools are not designed to reflect unique elements of the student loan programs, such as income-based repayment and extensive statutory entitlements such as deferments, forbearance, and loan forgiveness. Once recommendations are completed we will work to develop and disseminate guidance as appropriate for Federal and commercial student loans servicers. Given the complexity and cost of implementing credit reporting changes across 10 servicers and four servicing systems, FSA plans to implement these requirements for Federal loan servicers as part of the upcoming student loan servicing procurement, which is expected to begin in the next few months and conclude with new awards by late summer.

9. **How many contract changes has FSA made to the current loan servicer contracts since 2009? For what reasons does FSA make contract changes? How long does FSA give loan servicers to properly implement new contract changes before finding them in violation?**

   The number of loan serving contracts has changed since 2009, which began with one servicing contract, grew to five operational servicing contracts in 2010, and, ultimately, 11 operational servicing contracts in 2013. Today there are 10 operational servicing contracts.

   Each year, approximately 100 change requests are issued per contract, many of which are required by statutory changes. Most change requests allow the vendor to propose an implementation schedule; however, there are instances where an imposed deadline is provided especially where deadlines are mandated by the legislation.

10. **In February, FSA terminated five private collection agency contracts and 12 more contracts ended in April. While FSA is beginning to award some contracts, for the past five months only five PCAs were able to manage defaulted loans instead of the previous 22. Can you assure the committees that politics and outside pressure were not factors in this recent decision? Why has the small business pool procurement taken so long, and why is the unrestricted pool procurement – now over two years overdue – still not complete? When do you expect to complete these procurements?**

    FSA did not terminate any PCA agreements; rather, five agreements reached the natural conclusion of their period of performance. While five different PCAs received award terms, which allowed them, along with new PCA award recipients with Authorities to Operate, to receive new loan assignments, the remaining PCAs entered into an in-repayment retention period and continued to service defaulted borrowers in an effort to minimize the impact to these borrowers. The small business pool procurement navigated through two protests (GAO denied one protest and the Small Business Administration denied another), which added to the timeline for award. The unrestricted pool procurement was protested at multiple junctures (all protests ultimately were denied), each adding significantly to the timeline for award. Eventually, changes in the government's requirements necessitated significant revisions to the terms of the solicitation. In the judgment of the contracting officer, an amendment to the existing solicitation would have exceeded what the offerors reasonably could have anticipated. Further, additional sources might have submitted offers had the substance of these amendments been known to them. Accordingly, the contracting officer determined that cancelling the solicitation and issuing a new one was in the best interest of both the government and the interested firms. The new unrestricted pool solicitation closed in February 2016 and proposals currently are being evaluated.

11. **DMCS has continually been linked to issues ultimately affecting borrowers. There are now reports that newly defaulted borrowers in the TIVAS system are not being assigned to the PCAs in a timely manner so borrowers can get the urgent help they need to rehabilitate their loans and avoid damaging their credit. What is FSA doing to correct this, and other, persistent problems with the current system, including the concern of a backlog of accounts waiting to be rehabilitated?**

During summer 2015, assignments to DMCS were suspended temporarily prior to implementing a major system upgrade. This project—which implemented a number of major security enhancements, including two-factor authentication and a multi-version upgrade of the core product, Debt Manager 9—was completed in August 2015. The backlog of assignment files that accumulated during the suspension period was reduced through a catch-up plan developed by the vendor in consultation with FSA. The backlog of assignment files was fully cleared by October 2015.

12. For existing defaulted borrowers currently assigned to a PCA that did not receive an Award Term Extension, what metrics are being tracked by FSA to ensure these borrowers are getting the quality service they deserve and need from their PCA? How are borrowers assigned to the five PCAs that received extensions?

Borrowers who were left with collection agencies that did not receive award terms were limited to those who had entered into repayment arrangements and were expected to complete their loan rehabilitation within the next year. The performance of these PCAs are evaluated in the same manner as those PCAs that receive monthly allocations in that FSA tracks and reviews a series of items to assess PCA performance and the quality of borrower service. These oversight activities include monthly reviews of phone calls and borrower complaint data, monthly analysis of rehabilitation volume and resolution, and quarterly reviews of rehabilitation documentation. In addition, we review reports tracking recoveries by collection type on an ongoing basis.

Borrowers were assigned to the five award term extension collection agencies on an equal basis. Furthermore, in November 2015, six of 11 small business PCAs that were awarded new contracts also started to receive monthly placements, and in accordance with the contract, we are in the process of implementing revised allocation methods that will factor in performance across of a range of areas, including quality of service and effectiveness in collection efforts. We expect to begin assigning account to the other five small business PCAs once they have demonstrated they have met all Federal data security requirements.

13. What steps is FSA taking to minimize DMCS system delays and interruptions, including "down times," "slow times," and delays in posting payments to borrower accounts?

We have worked with the DMCS vendor extensively throughout the past year to identify and address issues that contribute to system delays and interruptions. During that time, we implemented a major system upgrade, a new disaster recovery site, and made improvements to the reporting and data replication process. We also are in the process of a complete review of the DMCS system architecture and operating environment to identify additional efficiencies that should improve system performance.

14. Through the private collection agency procurement cycle, many PCAs have been left in the dark and unable to determine staffing and make other logistical decisions, decisions that ultimately affect the services they offer to borrowers. Given this and

other past criticisms regarding communication between FSA and PCAs, what measures have been put in place to improve the communication process? When was the last vendor meeting? How much notice do participants have?

Communications with the current PCAs, including new awardees, occurs on a regular basis. The most recent formal meeting was held at the end of October and the attendees were given notice two weeks prior to the meeting. Generally, face-to-face meetings are not required and teleconferences are held. Meetings with offerors during an active solicitation are limited by regulations.

15. In testimony, we heard many examples of open recommendations given to FSA from the OIG. When can the OIG expect each of these recommendations to be closed?

FSA responds to all OIG recommendations. However, before an "open" OIG audit report is considered "closed," the report can fall into one of three categories:

1. Open – Not Resolved: A final audit report has been issued and contains recommendations.
2. Open – Resolved: FSA has developed an approved plan of action to address the report's recommendations.
3. Completed: FSA has completed all of the corrective actions in the Corrective Action Plan (CAP).

The designation "closed" means the documentation to close the audit has been submitted to the Audits Accountability and Resolution Tracking System (AARTS).

The Inspector General's written testimony (pages 4 and 5) indicates that "improvements [are] needed in [FSA's] process to resolve external audits," noting that "at present [...] the Department has not yet resolved 7 external audits that include 84 recommendations for corrective actions and monetary recommendations totaling more than $47.3 million." The status of each is summarized below.

Unresolved Audit	Status
1	Submitted 08/10/2015 to the OIG for concurrence.
2	FSA is seeking a policy clarification from the Department before returning to the institution for an on-site visit.
3	The settlement agreement was resolved and submitted to AARTS 02/04/2016. Pending closure.
4	OGC and the OIG are in discussions to close this audit.
5	Has been on-hold pending the settlement of a similar audit that was resolved 02/04/2016. FSA is now moving forward to see the OIG's concurrence.
6	FSA is seeking the OIG's concurrence.
7	OGC and the OIG are in discussions to close this audit.

16. GAO and the OIG have both reported issues with FSA conducting program reviews GAO found that, in some cases, FSA has not complied with the law because it has failed to systematically use information on accreditor sanctions to oversee schools and accrediting agencies. The IG found FSA has also failed to act in accordance with agency procedures because it does not consider annual dropout rates. Can you explain the process FSA uses to determine which institutions are chosen to undergo performance reviews? Why haven't you been complying with the Higher Education Act when conducting program reviews? What are you doing to rectify these findings?

FSA does currently consider the information received regarding accreditor sanctions and continues to strengthen its process. It is currently working with the Office of Postsecondary Education on efforts to develop a more collaborative and efficient communication process with the accreditors.

FSA conducts approximately 300 program reviews each year. However, in addition to the program reviews, over the last five fiscal years, FSA has resolved—per year, on average—1,570 deficient audits, analyzed 985 financial statements, and reviewed 1,392 recertification applications and 1,692 other application requests for approvals. These actions result in a Comprehensive Compliance Review being conducted, which includes the review of each institution's compliance audits, financial responsibility determination, status of eligibility, any open program review issues, cohort default rates, student complaints, and other related compliance issues/inputs.

Program reviews are conducted at the schools that demonstrate the highest risk to Title IV programs. However, in addition to submitting an annual compliance audit, all are required to undergo a recertification for continued participation in the Title IV programs at least once every six years; this recertification includes a comprehensive review of the institution. Schools selected for a program review are those schools that demonstrate the highest level of risk based on analysis conducted in the actions described above or other external information received. In the past five fiscal years, an average of 304 schools and school third-party servicer reviews have been conducted per year representing nearly five percent of participating institutions. As of August 2015, 57 percent of the institutions participating in Title IV programs have had a program review conducted since 1992. Our experience with our compliance assessment reviews—which are a limited number of reviews conducted at schools based on random selection, not risk—has shown that the schools that have not been reviewed in this time period (approximately 43 percent of participating institutions), generally have significantly fewer findings than those we target for reviews based on data and other information.

Further, a program review of an institution is only one means of determining an institution's compliance with applicable statutes and Title IV regulations. A review of compliance with regulatory requirements also is conducted with the review of and approval or denial of eligibility applications, resolution of deficient audits, review of payment claims for institutions on heightened cash monitoring, and in managing other operational requirements, such as reporting of gainful employment (GE) data to the National Student Loan Data System (NSLDS). POCs within FSA work collaboratively to ensure that institutions are

meeting requirements and when necessary are referred to Program Compliance for action which may include notification to an institution when it appears it is not in-compliance with a particular provision such as reporting GE data to NSLDS. Analysis conducted after the July 31, 2015, implementation deadline for reporting, determined schools that appeared to be non-compliant with the reporting requirement in total or partially. In addition to sending a letter, proactive contacts were made by FSA staff across the country to determine what assistance the institutions may need to come into compliance.

FSA conducts approximately 300 program reviews per year at the institutions determined to present the highest risk to Title IV dollars. However, the staff is responsible for considerably more activities than merely conducting program reviews. In addition, these same staff processed approximately 3,000 eligibility applications, which included approximately 1,200 recertifications, requests for approval of changes in ownership, mergers, new schools, and new programs or locations that require substantive review prior to approval. They also reviewed and processed approximately 1,200 Heightened Cash Monitoring packages and claims. This accounted for more than 600 schools on HCM1 within the year and more than 120 schools on HCM2 within the year, submitting multiple claims. The latter process requires staff to conduct detailed file review of a student's eligibility for submitted payment claims.

Annually, each school is required to submit a compliance audit and the School Service Eligibility Group (SESG) staff resolved approximately 1,600 deficient compliance audits. Each audit also is accompanied by a financial statement and during one year, the staff resolves approximately 1,000 financial statements, which have been flagged for additional review. In the last fiscal year, staff analyzed financial statements with flagged issues, determined correct composite scores, assessed 90/10 compliance, and managed securing and collecting Letters of Credit from 1,316 schools totaling approximately $7 billion.

This staff also is responsible for following up on and resolving an average of 3,500 complaints against institutions. Finally, new school reviews are conducted at institutions participating in Title IV for the first time. It is through the conduct and analysis of information reviewed through all of these processes that some of the approximately 300 institutions are selected for program reviews.

Currently, we do not have data that specifically identify a school's dropout rate. In its place, FSA has used a combination of IPEDS completion rates and NSLDS data for Title IV recipients who graduated and withdrew to identify schools with a high dropout rate; we have been doing so since 2013. We disagree with the OIG's assertion that our methodology is not a reasonable approximation of annual dropout rates. Further, the data we are using are available now, without imposing an additional reporting burden on schools or the additional costs that the Department would incur from modifying the IPEDS survey. However, we are in the process of consulting with both the OIG and NCES to determine if improvements can be made to our use of existing data and if the benefit of modifying the IPEDS survey would outweigh the costs to both schools and taxpayers.

17. **Please provide data showing how many institutions undergo a program review each year and how long the average program review process takes. Do you impose timelines on institutions to respond to program reviews? What guidelines do you impose upon yourselves regarding impositions of fines on institutions? How can institutions treat FSA as a partner when you require swift responses from them, but can take years to respond to information they have provided you? How can Congress have faith that students' needs are being appropriately served?**

    FSA currently conducts a program review at approximately 300 institutions each year. Since 1995 (the time period for which data is available), FSA has conducted more than 6,000 program reviews. FSA is required by statute to conduct program reviews at institutions based on several metrics spelled out in statute that include cohort default rates and other variables. FSA prioritizes reviews not only based on the metrics spelled out in statute, but also on other variables that we have identified over time to reflect a higher risk of non-compliance with Title IV regulations. Prioritizing reviews in this manner, as required, results in some institutions not being identified for a program review. However, as described in Question 22, on average, approximately one-half of the institutions received some type review through a number of other oversight activities by FSA each year.

    Institutions generally are provided 30 to 60 days to respond to a program review report. If a full file review is required for one or more findings, the institution may, and often does, request one or more extensions to respond to the program review report. FSA regularly accommodates such requests by institutions and does not deem such requests as unusual.

18. **On November 5, the Secretary of Education sent out a memo instructing FSA and OPE to figure out a better process for communicating effectively with each other. Why haven't you been communicating effectively with OPE? What have you done to correct these communication issues?**

    Even though FSA and OPE have effectively worked together for many years, enhancements to our communication process would assist each organization in more effectively carrying out its mission. Since the Secretary's November 5, 2015, memo, a workgroup and various subcommittees were established to define a formal communication strategy between FSA, OPE, and the accreditors. A memorandum was issued to the Secretary January 20, 2016, proposing that strategy.

19. **GAO testified that FSA is not providing sufficient feedback to servicers on the results of your call monitoring. The information is critical in allowing servicers to know if they are meeting customer service guidelines. What steps is FSA taking to improve these processes?**

    FSA has increased the frequency of routine call monitoring activity from quarterly to monthly. In addition, FSA is drawing expanded samples of calls to monitor from all specialty call lines implemented by federal servicers to provide content specific customer service. Examples of specialty lines include service members, public service loan forgiveness, total

and permanent disability discharges, borrower defense discharges, TEACH grants, and loan consolidation services.

The Quality Assurance tool used to collect monitoring data and report it back to servicers is being modified. FSA will move from a pass/fail format and will implement a weighted scoring process. This change will provide for more actionable information to the federal servicers and the information will address more specific subject matter.

20. **Even though current law requires borrowers to undergo entrance counseling before they receive their first federal student loan, 40 percent of current students and recent graduates cannot recall having received counseling at all. This raises significant concerns about the effectiveness of this counseling and whether students actually understand the financial obligations they are undertaking. What is FSA doing to work with schools to fix the problem of ineffective counseling? Can statute be made clearer that FSA is responsible for making sure students understand the federal financial aid system?**

FSA has provided information to schools about the best practices for loan counseling and financial literacy programs through a variety of channels.

The annual FSA training conference includes presentations on loan counseling and financial literacy. The 2015 conference was attended by more than 6,000 financial aid administrators, representing more than 2,000 schools. Default prevention workshops are held throughout the country and via webinar. The training materials include a focus on improving loan counseling.

Additionally, FSA has presented related information at numerous conferences hosted by higher education associations, financial aid associations, and schools, such as the American Association of State Colleges and Universities, the American Association of Community Colleges, and the White House Initiative on Historically Black Colleges and Universities.

In April 2015, FSA issued a Dear Colleague Letter about loan counseling requirements and flexibilities for schools. The letter discusses the statutory and regulatory requirements for entrance counseling, as well as schools' flexibility to augment that counseling. The letter also includes information about loan counseling strategies that schools can use to help ensure that students are well informed about their borrowing decisions.

FSA is in the planning stages for an experimental site about loan counseling. Congress authorized the Experimental Sites Initiative under section 487A(b) of the HEA. The experiments test the effectiveness of statutory and regulatory flexibility for participating institutions disbursing Title IV student aid. By contrasting the results achieved with the flexibilities with results under current regulations, the Department has data to support changes to regulations and statute. The outcomes of experiments have the potential to benefit all postsecondary institutions and the students they serve.

For entrance and exit counseling, schools can choose to use FSA's online tools on StudentLoans.gov or those of a third party, or to create their own. In FY 2015, more than 4.7 million borrowers completed FSA's entrance counseling and 1.6 million completed FSA's exit counseling.

The StudentLoans.gov website, including the counseling tools, currently is being redesigned to be mobile-responsive; these changes will be implemented in summer 2016. As part of the redesign effort, FSA will implement changes that will improve the loan counseling experience.

We do not believe clarification in the statute is needed.

21. **In October, FSA posted a Request for Information (RFI) on whether there are existing entities that could help with vendor management. What specific issues is this RFI attempting to solve, and how exactly do you intend to solve them?**

The RFI was not issued to solve any specific issue. Rather, as part of ongoing market research, the sources sought notice was issued for information and planning purposes to determine what services and solutions are available in the commercial marketplace that could be leveraged to best manage data and information technology. The use of RFIs is a common means, government-wide, to perform ongoing market research and to support long-term procurement planning.

22. **We have heard numerous complaints from institutions that FSA has incorrectly interpreted and implemented the accounting definitions and standards used to calculate the financial responsibility composite scores for private institutions. Additionally, rather than consider the overall financial health of an institution as required by the law, FSA has deemed institutions not financially responsible based solely on these composite scores, meaning that well-performing and financially stable institutions are subject to administrative and financial penalties, including having to purchase expensive letters of credit to ensure their ability to receive financial aid. How can we trust FSA to appropriately monitor the financial responsibility of institutions participating in the student aid programs if you are sanctioning well-performing institutions yet fail to catch institutions with financial risk?**

FSA is bound to enforce the financial responsibilities requirements as described in the Department's regulations. FSA works in collaboration with the Office of Postsecondary Education and the Office of the General Counsel in ensuring the proper interpretation of the regulations.

23. **We have heard from numerous institutions about inconsistencies between the different regional teams responsible for oversight and management improvement services of the specific schools assigned to them. As part of your statutory responsibilities, you are required to develop and maintain a student financial assistance system that ensures program integrity, which cannot be done if it is implemented inconsistently. What sort of guidance and education do you provide to the regional offices to ensure that they**

assess liabilities, fine, suspend, or terminate eligibility, or take other actions against schools in a consistent and fair manner in accordance with the law?

FSA has standard policies and procedures to ensure consistency in the application of its oversight processes across regional school participation divisions. Administrative actions (such as fines, suspension, and terminations) are a centralized function coordinated by our Administrative Action & Appeals Service Group in collaboration with our Office of General Counsel. Our guidance and training efforts to staff is continuous and aims to further ensure consistency applied across the organization.

24. **Under the new cash management regulations, how can you justify requiring Heightened Cash Monitoring 1 institutions to pay students their living expense amounts in advance of even being able to request the funds from FSA? Doesn't this effectively erase the difference between HCM1 and HCM2 statuses and burden institutions that, in some cases, are not even on HCM1 for fiscal soundness reasons**?

FSA's responsibility is to ensure institutions comply with the regulations governing the Title IV programs. FSA does not determine the policy decisions. Rather, those are determined at the Department.

25. **Recently, the Department of Education released a Dear Colleague Letter expanding the definition of "third-party servicer" (TPS) and the reporting requirements for those institutions and providers that manage parts of the financial aid system and provide other services to students. Previously, the department had limited its focus to third parties performing financial aid processing and other services required to be performed by institutions of higher education, but now online education providers, loan counseling and default management providers are being swept up into the department's net. What authority did the department utilize when expanding its definition to include hundreds of providers?**

The Department of Education did not expand the definition of a "third-party servicer" in Dear Colleague Letter GEN 15-01 issued on January 9, 2015. The purpose of GEN 15-01 was to clarify the existing regulations. A third-party servicer is defined as, "An individual or a State, or a private, profit or nonprofit organization that enters into a contract with an eligible institution to administer, through either manual or automated processing, any aspect of the institution's participation in any Title IV, HEA program." While the definition goes on to outline a number of functions that the Department considers as administration of an aspect of the institution's participation in the Title IV programs, the regulation clearly indicates that the list is not exhaustive and does not exclude functions or services (such as counseling, delinquency, and default aversion) implemented by an institution to lower or maintain loan cohort default rates or other functions or services necessary to ensure compliance with the HEA. See 34 CFR § 668.2(b).

An institution is required to notify the Department within 10 days of the date it enters into, modifies, or terminates a contract with a servicer to administer any aspect of its participation in the Title IV programs. If an entity or individual performs a Title IV service or function that

is necessary for the institution to remain eligible to participate in the Title IV programs, to determine a student's Title IV eligibility, to account for Title IV funds, to deliver Title IV funds to students, or to perform any other aspect of the administration of the Title IV programs, the entity is considered a third-party servicer and the institution is required to notify the Department that the institution has entered into a contract with that entity.

The Department determined through data analysis, research, program reviews, and audits that a significant number of higher education institutions failed to report, update, and/or incorrectly reported third party servicer information on its E-App and that contracts with third-party service providers did not include legally required language and/or safeguards for protecting student information.

The purpose of GEN 15-01 was to remind institutions of their responsibilities as it pertains to outsourcing any aspect of their administration of the Title IV programs. The list of Title IV activities outlined in GEN 15-01 includes those functions or services that are frequently performed by third-party service providers. In making a determination as to whether or not an entity or individual is considered a third-party servicer, the Department looks at each contract individually and focuses on the services or functions that are being performed at an institution as opposed to a title that the entity may be using or a generic description of the types of services provided by the service provider. In a number of instances, the Department determined that online providers are performing Title IV functions from remote locations on behalf of one or more institutions and/or are responsible for maintaining all, or some, of an institution's Title IV records.

As far as specific authority related to the Department's oversight of third-party servicers that perform loan counseling and default management services, an institution's continued participation in the Title IV programs is contingent on, among other things, its compliance with the standards of administrative capability. 34 CFR § 668.16. One of these standards requires institutions to maintain loan cohort default rates below specified thresholds. 34 CFR § 668.16(m). In addition, institutions that are over these thresholds for one year must develop and implement a default reduction plan. 34 CFR § 668.217. Consequently, part of an institution's administration of the Title IV programs includes default prevention and reduction and any individual or entity that contracts with an institution to perform default prevention or aversion activities on behalf of the institution is considered a third party servicer. An institution's continued participation is also contingent upon providing adequate financial aid counseling to eligible students who apply for Title IV program assistance. 34 CFR § 668.16(h). Any entity that contracts with an institution to provide financial aid counseling (such as call centers, live chat, instant messaging, etc.) is considered a third-party servicer. The regulations also require institutions to perform entrance and exit loan counseling for all borrowers participating under the federal student loan programs. See 34 CFR § 685.304. Any entity that contracts with an institution to conduct or provide entrance and/or exit loan counseling (face to face or online) is considered a third-party servicer.

Responses by Mr. James W. Runcie
Chief Operating Officer
U.S. Department of Education

Questions from Representative Luke Messer

Subcommittee on Higher Education and Workforce Training Hearing: "Federal Student Aid: Performance Based Organization Review"

1. **In July, the Department of Education issued a Dear Colleague Letter (DCL) that would prohibit guaranty agencies from a previously common practice, imposing collection costs on borrowers who enter into any kind of repayment within 60 days of default, and claimed this DCL was enforcing current policy. Despite many audits over multiple years, guarantors have never been found to be in violation of such a policy. If, as you claim, this has been policy in the past, where was this policy laid out and why did the Office of Federal Student Aid not tell guaranty agencies they were not in compliance?**

   The Department explained the history of the rules governing the imposition of collection costs on borrowers who enter into repayment agreements (including a rehabilitation agreement) within 60 days of a default in Dear Colleague Letter (DCL) GEN-15-14. As discussed in that letter and in the decision of the United States Court of Appeals for the Seventh Circuit in Bible v. United Student Aid Funds, the conclusion that a guaranty agency cannot charge collection costs to a borrower who enters into a repayment agreement within 60 days of default is based on regulations issued by the Department in 1992, which were based in part on earlier regulations governing tax refund offset procedures issued in 1986. As we also noted in the DCL, it is the Department's experience that few borrowers enter into a repayment agreement within the initial 60 day period. Therefore, the Department's past reviews of guaranty agencies did not focus on that particular issue. However, as noted in the letter and in the Court's decision, the Department clearly explained the prohibition on charging collection costs to these borrowers when the issue arose.

Responses by Mr. James W. Runcie
Chief Operating Officer
U.S. Department of Education

Questions from Representative Carolyn B. Maloney
Subcommittee on Government Operations

Hearing: "Federal Student Aid: Performance Based Organization Review"

Earlier this year, the Department of Education joined the CFPB and the Department of the Treasury in soliciting information about student loan servicing from the public.

One key complaint raised by numerous respondents was "servicers of both private and federal student loans may not inform borrowers experiencing financial hardship about available alternative repayment plans."

a. **How does your office examine whether servicers are providing repayment information to borrowers that is complete, accurate, and timely?**

FSA has no authority over private loans. FSA monitors federal student loan servicers' performance related to providing payment information to borrowers to ensure that it is complete, accurate and timely. All servicers are expected to provide information about the full range of repayment options to enable the borrower to make an informed decision about which option is best for their circumstances. Customer Service Representatives (CSRs) are trained on all plans and rely on scripts and other tools, including prepared talking points, to assist them with these conversations. CSRs also are trained to listen for key words such as "unemployed," which might indicate the need for a change in a repayment plan, or the granting of a forbearance or deferment to allow the borrower to delay making payments.

As part of servicer quality control, supervisors listen to the CSR calls that include these topics. In addition, FSA's own Call Monitoring Team listens to inbound/outbound servicer telephone calls; a percentage of these calls include a discussion of repayment information. Should CSRs commit errors in the counseling process, FSA calls this to the servicer's attention so that corrective actions can be taken. This may include focused training, reminders provided to staff, or even re-contacting the borrower if the discussion was determined to be inadequate.

FSA's Servicer Monitoring Team in Kansas City currently is reviewing how servicers process borrower payments, including electronic debiting of accounts (ACH). Should processing errors be discovered, the servicer is notified and instructed to make the necessary corrections. The Servicer Liaison Team is responsible for following up to make certain these corrections occurred. Servicers provide payment information on their public-facing websites to assist borrowers and FSA reviews website content for accuracy and completeness.

b. How often are borrowers receiving incomplete, inaccurate, or untimely information from their servicers?

While FSA's oversight and other program data indicate that our servicers generally provide complete, accurate, and timely information, the results of the CFPB survey (which reflect the anecdotal responses of a self-selected population equal to roughly 0.03 percent of total borrowers)—as well as other anecdotal and complaint data and FSA monitoring results—indicate that across the more than 30-million borrower portfolio managed by FSA and its servicers, there are cases where borrowers do not receive thorough, correct, and prompt responses. We are working to enhance our oversight and identify and implement system and process improvements to ensure that borrowers consistently receive the information they need to manage their debt.

c. How much of loan servicers' compensation is currently based on achieving specific customer service standards?

The contracts include servicing requirements that all servicers are required to meet. Compensation is based upon a fixed unit rate depending upon the borrower's loan status. For example, each servicer receives a monthly payment of $1.05 for each borrower in school, $2.85 for each borrower in repayment and current, and other amounts for each borrower in the in-grace period, in deferment, in forbearance, and in various stages of delinquency. These rates are designed to compensate the servicer more for borrowers who are current and in repayment. The servicers can earn additional revenue by receiving more loan allocations, and one of the main performance metrics which determine the allocation percentage is receiving higher customer satisfaction scores than their competitors.

d. Will the achievement of customer service standards factor more heavily into servicers' compensation when contracts are rebid?

Decisions regarding the compensation structure for new servicing contracts will be determined as part of the procurement process. This process still is in the early stages, but is expected to be completed no later than the end of calendar year 2016.

Mr. Runcie, on September 29, 2015, the Department of Education, Department of the Treasury, and CFPB issued "Joint Principles on Student Loan Servicing."

These principles specify that student loan servicing should be, quote, "consistent," "accurate and actionable/' "accountable," and "transparent."

a. How is the Department of Education translating these principles into specific practices?

In terms of consistency, FSA is requiring servicers to follow a standard for borrower due diligence, and we are beginning to apply new requirements for enhanced and consistent communications to borrowers through change requests currently being written for our federal loan servicers. On a more frequent and consistent basis, borrowers will be notified of all

repayment options and alternatives. Additional information also will be provided to borrowers throughout the servicing life cycle, utilizing the ED brand for more critical messages.

We also are improving our call monitoring and process monitoring by increasing sample sizes, and ensuring all call and process types are better represented in the samples reviewed. In addition, enhanced monitoring will enable clear oversight feedback to the Federal servicers and PCAs.

More broadly, given the complexity and cost of implementing major changes related to the application of overpayments and prepayments across 10 servicers and four servicing systems, FSA plans to implement many improvements as part of the upcoming student loan servicing procurement, which is expected to begin in the next few months and conclude with new awards no later than the end of calendar year 2016. This effort will focus on streamlining and simplifying servicing systems and processes to improve customer service, increase efficiency, and enhance the Department's ability to effectively oversee and monitor servicing operations.

b. What new standards and requirements is the Department developing for servicers, and how will the Department hold servicers accountable for meeting these new standards?

New requirements have been added to those already in progress from related initiatives, to provide additional information to borrowers regarding repayment options and borrower benefits. Implementation of these requirements is contingent upon the availability of funding. In summary, these requirements provide for:

- Additional notifications for borrowers who are in school or in grace period status, including quarterly statements identifying principal and interest, and redundant ED branded communications introducing borrowers to repayment, with repayment option and borrower benefit information.

- Additional notifications providing information for borrowers in special circumstances, including eligibility requirements for servicemember benefits, PSLF and discharge conditions, status of applications, and instructions for correcting incomplete benefit applications.

- IDR application status reporting, incomplete IDR application instructions for completion, FSA branded IDR awareness notifications at different stages of delinquency.

  Servicers are accountable for implementing the requirements provided to them. FSA monitors servicing processes and communications for accuracy, effectiveness, and adherence to laws and regulation. When loans requirements are not met and loans are not serviced according to our requirements, FSA may withhold payment for the duration the accounts were not serviced properly.

c. **Will the Department's contracts with its servicers be altered in any way to ensure that servicing meets these principles? If so, what alterations will be made and by what date?**

We currently are assessing how best to implement the "Joint Principles on Student Loan Servicing." In some cases contract changes have already been made to standardize and enhance borrower disclosures and implement other improvements to better serve borrowers. More broadly, we are in the initial stages of a new student loan servicing procurement through which many of the broader changes will be addressed. This procurement is expected to be completed no later than the end of calendar year 2016, followed by a multi-year transition plan to shift borrowers from the current servicers to the new vendors.

Responses by Mr. James W. Runcie
Chief Operating Officer
U.S. Department of Education

Questions from Representative Susan A. Davis

Subcommittee on Higher Education and Workforce Training Hearing: "Federal Student Aid: Performance Based Organization Review"

1. **On March 10th, 2015 a Presidential Memorandum was released which created a Student Bill of Rights. What has been accomplished to date in terms of implementing the Department of Education's new guidelines for how servicers process student loan prepayments?**

   Given the complexity and cost of implementing changes related to the application of overpayments and prepayments across 10 servicers and four servicing systems, FSA plans to implement these requirements as part of the upcoming student loan servicing procurement, which is expected to begin in the next few months and conclude with new awards no later than the end of calendar year 2016.

2. **In September 2015, the Department of Education signed a Joint Statement of Principles with the Consumer Financial Protection Bureau and Treasury to work together on student loan servicing issues. Can you please demonstrate how the Department is working with Treasury and CFPB to inform servicers of these new guidelines, particularly how to properly process prepayments?**

   Regarding the federally held student loan portfolio, information on the new guidelines will be provided directly from FSA to our student loan servicing and debt collection contractors. Given the complexity and cost of implementing major changes across 10 servicers and four servicing systems, FSA plans to implement most requirements related to the Joint Statement of Principles, including those related to prepayments, as part of the upcoming student loan servicing procurement, which is expected to begin in the next few months and conclude with new awards by late Summer 2016.

Responses by Mr. James W. Runcie
Chief Operating Officer
U.S. Department of Education

Questions from Representative Todd Rokita
Committee on Education and the Workforce

Hearing: "Federal Student Aid: Performance Based Organization Review"

1. **The Committee is still awaiting a response to our letter requesting information on how the department calculates cohort default rates. Given the significance cohort default rates have on institutions and the students attending them, and the concerns regarding transparency of the process FSA is using to calculate them, what specific assurances can you give Congress, taxpayers, students, and families across the country that the process of collecting and calculating data used to determine CDRs is accurate and verified?**

   The Department calculates the Cohort Default Rate (CDR) for an institution based on statutory requirements in section 43 5(a) (2) of the HEA of 1965, as amended (the HEA). Additional detail regarding the purpose, definition and calculation can be found in 34 CFR 668.200 and 668.202.

   The accuracy of data is verified by Department staff. FSA consistently monitors incoming data through monthly benchmarks, dashboards, quarterly reports, and other data monitoring tools. The calculation is verified by ensuring that the formula has captured the correct cohort of borrowers in default and repayment status. Additionally, comparative analysis is conducted in order to identify any anomalies.

2. **How do you ensure the data presented throughout the CDR calculation processes and included in FSA briefing materials are uniform and up-to-date? Where does all of this data come from?**

   FSA conducts periodic program reviews of all data providers. FSA collects the necessary data from schools, lenders, guaranty agencies, and servicers. These data providers are responsible for submitting enrollment and loan status data to the National Student Loan Data System (NSLDS). NSLDS then provides information and data charts which are prepared after each draft and official cycle.

3. **When erroneous data is corrected during both the draft and official CDR appeal processes, is it permanently changed in the NSLDS? Understanding that many of these data corrections move borrowers from one cohort to another, are the corrected data permanently changed in a school's CDR data?**

   Erroneous data is only collected and corrected during the official CDR appeal process. Corrections are forwarded to the Data Manager, who will update NSLDS accordingly. The changes are "permanent" and are reflected in the school's CDR data.

4. **In 2014, FSA announced its plans to alter certain CDRs outside of the regular challenge and appeals process in the law. Why has FSA determined such alterations were necessary in the absence of an appeal, and what was the rationale for not applying such alterations to all institutions' rates? Has FSA considered the consequences for inconsistently adjusted rates, including institutional eligibility for state funding?**

The Department made adjustments to the most recent official three-year official CDRs for any institution that was potentially subject to sanctions with the release of the FY 2011 and the FY 2012 CDRs.

Adjustments were made to account for the impact of "split status" loans. This adjustment was done only if the institution WAS NOT subject to sanctions last year, but would have been subject to sanctions this year.

A "split status" borrower refers to a borrower who has more than one federal student loan and in which the one or more of the loans falls into a different repayment status (e.g. one loan is in deferment, while a second loan is in default). The adjustment to the calculation excludes from the CDR numerator certain borrowers in the FY 2010 and FY 2011 cohorts who defaulted on a loan, but who had one or more other Direct or FFEL program loans in a repayment, deferment, or forbearance status for at least 60 consecutive days that did not default during the applicable CDR monitoring period. A borrower was only excluded from a CDR numerator for FY 2010 and FY 2011 if there were one or more non-defaulted loans that met the above criteria for each of a borrower's defaulted loans.

As a result of the adjustments to the FY 2010 and FY 2011 cohorts, a very small number of schools, ultimately, were not subject to sanctions.

The national cohort default rate was unaffected by the split-servicing adjustments.

The enclosure provides your questions and our responses for the record and supplements information provided to your committee in our testimony, *Federal Student Loans: Key Weaknesses Limit Education's Management of Contractors* (GAO-16-196T, Washington, D.C.: November 18, 2015).

Questions for the Record

The Honorable Mark Meadows
Chairman, Subcommittee on Government Operations
Committee on Oversight and Government Reform

The Honorable Virginia Foxx
Chairwoman, Subcommittee on Higher Education and Workforce Training
Committee on Education and the Workforce

1. **In your testimony, you discuss the weaknesses of FSA's servicer call monitoring processes. Please explain why call monitoring is an important part of FSA's management of the Direct Loan program and discuss what these deficiencies ultimately mean for borrowers?**

Calls between servicers and borrowers are one of the primary ways borrowers interact directly with the program throughout the life of their loans, and FSA has an interest in ensuring borrowers receive good customer service and accurate information. Without a reliable, systematic way to monitor these calls and document the results, FSA management is missing opportunities to understand customer service issues, spot trends over time, ensure prior issues have been fully addressed, and improve customer service for borrowers.

2. **Does FSA track all of the servicer call errors in its review system? Please expand on how this affects FSA's management of the Direct Loan program.**

No. FSA uses monthly summaries of call monitoring errors by servicers to provide information on call monitoring results to FSA management. These reports only include errors from calls that they designate as a failure, which is defined as a call with 4 or more errors. These errors can be related to showing poor etiquette, providing inaccurate information, or taking the wrong action, such as not informing a borrower of their potential eligibility for a different repayment option. Calls with 3 or fewer of these errors are not listed in FSA's reports as having failed the review, and the issues raised in those calls are not reflected in the summary reports management receives.

The monthly summaries of results across servicers are also poorly documented, and do not provide FSA with information it needs to understand and manage the program. Our analysis showed they were missing information, did not have consistent and comparable information month-to-month, and sometimes contradicted each other. For example, the summaries do not always have basic information like the number of calls reviewed and the number that failed the review. Given these weaknesses, it's not clear how management can use these reports to effectively manage the Direct Loan program.

3. **Based on the work GAO has done, do you believe FSA is living up to its mission as a PBO? What additional accountability needs to exist at FSA to ensure it meets the requirements in the law?**

GAO has not specifically examined FSA's performance as a PBO since 2002 (please see GAO-02-255). However, our work has highlighted key areas where FSA can improve its accountability for and management of the Direct Loan program. For example, FSA should strengthen its instructions and guidance to servicers to address areas of inconsistent program implementation, which can have financial consequences that hurt borrowers or risk the integrity of the program. FSA should also implement a robust, systematic process for monitoring and documenting calls between borrowers and servicers (see GAO-16-196T for additional information). Without these improvements, FSA may miss opportunities to ensure program integrity and improve services to borrowers. In addition, our work on loan rehabilitation identified the need for FSA to strengthen oversight of its defaulted student loan system contractor (see GAO-14-256). Without incorporating a risk-based approach to oversight, the department may continue to receive products and services that are delivered late and of unacceptable quality. FSA has taken some steps to improve its oversight of loan rehabilitation, and we will continue to monitor how FSA builds upon and sustains these efforts over time to ensure it is providing appropriate levels of contract oversight. Finally, we are currently conducting a review of the Department of Education's oversight of the Direct Loan program, and anticipate publishing our findings next year.

Questions for the Record

Kathleen S. Tighe, Inspector General, U.S. Department of Education
For the U.S. House of Representatives
Committee on Oversight and Government Reform Subcommittee on Government Operations and Committee on Education and the Workforce Subcommittee on Higher Education and Workforce Training
Federal Student Aid Performance Based Organization Review
November 18, 2015

Questions from Subcommittee Chair Virginia Foxx:

Question 1: In testimony during the hearing, we heard many examples of outstanding or open Recommendations from your office on FSA. On the whole, how would you characterize FSA's response rate to your recommendations? Which open recommendations are you most concerned about from an oversight perspective?

Inspector General Tighe Response: As you know, the Office of Management and Budget A-50 Circular, Audit Followup, requires agencies to establish systems to assure the prompt and proper resolution and implementation of U.S. Department of Education (Department) Office of Inspector (OIG) audit recommendations. The Circular states, "Resolution shall be made within a maximum of six months after issuance of a final report . . . Corrective action should proceed as rapidly as possible." The Circular provides definitions as follows:

- Audit Resolution – the point at which the audit organization and agency management or contracting officials agree on actions to be taken on reported findings and recommendations.

- Corrective Action – measures taken to implement resolved audit findings and recommendations.

FSA is timely in responding to OIG internal audit reports of Departmental operations within 60 days, and usually prepares acceptable corrective action plans to achieve audit resolution within six months. However, implementation of corrective action is not always timely.

For external audits of postsecondary institutions, audit resolution and implementation are rarely timely. As we report in our most recent Semiannual Report to Congress, FSA has not yet resolved 7 external audits that have been open for many years that include 84 recommendations for corrective actions and monetary recommendations totaling more than $47.3 million.

In 2015, we issued an audit report on FSA's audit follow-up processes for recommendations made in OIG external audits. We found that FSA did not close[1] audits timely and did not adequately maintain documentation of audit follow-up activities. Between October 1, 2008, and September 30, 2013, FSA had resolved[2] a total of 36 external OIG audit reports, but only 1 audit had been closed. The total of the monetary recommendations associated with the 36 resolved audits was more than $1.3 billion. We also found that FSA did not adequately maintain documentation that showed requested corrective actions were completed or were being monitored for completion. Not requiring external entities to take timely corrective action diminishes the deterrent value of OIG audits and their impact on ensuring student and taxpayer interests are protected. By not obtaining or maintaining appropriate documentation, FSA did not have assurance that identified deficiencies had actually been corrected. As such, the risk remains that related programs are not effectively managed and taxpayer funds are not being used as intended.

Regarding open recommendations that are most concerning to the OIG from an oversight perspective, we are most concerned with weaknesses in internal controls over Information Technology (IT). Several of the critical systems used by FSA to operate its programs house the personally identifiable information (PII) of student and parents applying for Federal student aid. In recent years, the Department has experienced sophisticated attacks to its IT systems, including hostile Internet browsing and phishing campaigns resulting in malware infections, as well as unauthorized accesses accomplished by stealing credentials from employees or external business partners through keystroke loggers.

Our FY 2015 Federal Information Security Modernization Act review made findings and recommendations in a number of security areas for which FSA is responsible (or shares responsibility with the Department), including continuous monitoring management, identity and access management, and remote access management. We believe FSA needs to work closely with the Department's Office of the Chief Information Officer to address IT internal control weaknesses as soon as possible to protect the PII of applicants for Federal student aid.

Question 2: Based on the work the OIG has done, do you believe FSA is living up to its mission as a PBO?

Inspector General Tighe Response: Since establishment of the PBO in 1998, we believe FSA has been successful in upgrading systems to be more user friendly for students and parents (e.g., FAFSA.gov), improving its financial management, and improving data integrity in its systems. FSA has made significant strides in improving program delivery to meet its PBO responsibilities as well as meeting the strategic goals it uses to achieve its statutory purpose. In the early years as a PBO, FSA was a leader in developing electronic processes for students and parents that may not have been possible had it not had the authorities provided by the PBO legislation. In recent years, FSA did a good job during the credit crisis in managing the 2008 Ensuring Continued

[1] An audit is *closed* when the Department determines that the agreed-upon actions have been completed.
[2] An audit is *resolved* when the Department and OIG agree on the corrective action to be taken to address our findings and recommendations.

Access to Student Loans Act purchase programs to assure Federal Family Education Loans (FFEL) were available to students and parents and in successfully transitioning the FFEL schools to 100 percent Direct Lending in 2010.

However, our work continues to identify problems in FSA's oversight of participants in the Federal student aid programs, its efforts to identify and reduce improper payments, and its contract management to ensure program integrity and better safeguard taxpayers' interests. As I stated in my testimony, for the next reauthorization of the Higher Education Act, Congress may want to consider adding specific requirements for oversight and contract management to the purposes and functions of the PBO and require the PBO performance plan to establish measurable goals and objectives in these areas. The PBO annual report should also contain an evaluation of those goals and objectives.

Question 3: As mentioned in testimony, GAO released a report last year finding significant deficiencies in the functionality of DMCS2, which eventually led to $1.1 billion in loan funds eligible for loan rehabilitation unable to be transferred for management and collection. In August, your office released an audit report saying FSA could not ensure DMCS2 is fully functional because it did not develop an adequate plan, sufficiently oversee the contractor, or use appropriate systems development tools. Two weeks ago, your office released a report saying FSA did not always accurately assess the operational status of DMCS2, undermining the work to fix said issues. Taken alone, do you believe the ongoing problems throughout this process are demonstrative of larger deficiencies across FSA? Do you see similar deficiencies in other areas?

Inspector General Tighe Response: As you stated, in November 2015, we issued a report on FSA's determinations that aspects of DMCS2 were functional. In that audit, we found that FSA did not always accurately assess the operational status of various aspects of DMCS2 as of March 2013. This assessment formed the basis for the operational status of DMCS2 that guided the transition to a new contractor, Maximus. Earlier, in August 2015, we issued an audit of FSA's plan to correct significant DMCS2 deficiencies and found that FSA could not ensure that the original contractor delivered a fully functional system because it did not develop an adequate plan, did not ensure milestones were met, did not hold the contractor accountable for missing milestones, and did not use appropriate systems development tools.

FSA responded to the deficiencies identified during the course of our audit by incorporating elements of lifecycle management methodology (LMM) and penalties for missed milestones into its new contract with Maximus; FSA also awarded a separate independent validation and verification contract. Our August report found that FSA's contract with Maximus and its other corrective actions provide a methodology that, if properly implemented, increases the likelihood that Maximus will identify and timely correct DMCS2 system deficiencies. However, we found that FSA did not update its presolicitation baseline plan of expectations for correcting the DMCS2 deficiencies until December 23, 2014, more than 9 months after Maximus began working on DMCS2. As such, we are concerned that FSA's delay in updating that plan may be an indication that FSA is not fully implementing its LMM. We identified additional opportunities for FSA to improve its oversight of the Maximus contract.

As a result of concerns we identified during our audits of the system deficiencies in DMCS2 and FSA's oversight, earlier this year we began an audit of FSA's oversight of IT projects. The objective of our audit is to determine whether FSA's oversight of IT projects ensures that its LMM is appropriately implemented. To address our objective, we are focusing our review on FSA's Performance Management and Technology Offices' process for ensuring IT projects followed LMM and the review of LMM project documentation for the period June 15, 2012, to December 31, 2014. We look to issue our final audit report by early summer 2016.

December 23, 2015

Subcommittee on Higher Education and Workforce Training
2157 Rayburn House Office Building
Washington, DC 20515

Response to Question for Mr. Justin Draeger
President
National Association of Student Financial Aid Administrators

Question from Chairwoman Virginia Foxx
Subcommittee on Higher Education and Workforce Training

Hearing: "Federal Student Aid: Performance Based Organization Review"

1. When Congress designated FSA as a performance-based organization, it was done in such a way to ensure FSA would be separate from any political influences or from the ability to make policy. Can you provide examples where FSA has acted beyond its statutory authority and is actively setting policy? How have these overreaches ultimately affected schools and students?

Thank you for your inquiry. While there are areas where we suspect FSA has wandered into policy territory, it is difficult to know when a requirement communicated by FSA is actually FSA acting independently, or is a result of a policy decision at the Office of Postsecondary Education (OPE) that FSA has been directed to implement. Unfortunately, transparency at the Department of Education does not extend so far as to make the originator of an initiative explicitly obvious.

FSA collects, stores, and recycles many types of data. At times, it seems that crossing lines between policy implementation and policy development involves use of data. An example is the Classification of Instructional Program (CIP) codes, which categorize fields of study. CIP codes were adopted for Title IV student aid purposes to determine whether a student's major qualified for a National Science and Mathematics Access to Retain Talent (National SMART) Grant. This reasonable use of an existing classification system has since expanded to areas far less appropriate.

One of the strongest examples, as noted in our testimony, occurred in 2012 when Congress placed a limitation on how long students could receive subsidized loans. In order to meet the regulatory requirements of this provision, FSA believed that it needed to begin collecting CIP codes to categorize academic programs. Per the statutory requirement, this information was only

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needed for students who were borrowing a subsidized loan. However, FSA requires that schools report CIP codes for *all* borrowers, including graduate students who are ineligible for subsidized loans. Further, as a result of using CIP codes as part of a unique program identifier, the NSLDS Enrollment Reporting Guide requires that "Whenever a student changes majors, the school should report the student as withdrawn from the previous program and enrolled in the new program on the next enrollment submission."

Requiring significant amounts of new data that are not needed to implement a regulation, at a significant expense and burden to schools, is tantamount to policy, not operations. Collection of this information, coupled with data ED already has on file for thousands of financial aid recipients, veers closely toward collecting student unit level data, which is currently banned by law.

Subsequently, CIP codes were being used to define in part which Perkins borrowers qualify for grandfathering. Before the current extension, when the Federal Perkins Loan Program appeared to be at an end, the law allowed borrowers to continue to receive loans for up to 5 years for the purpose of completing their academic programs. ED decided that CIP codes should be used to define the student's program, so that a student in a baccalaureate program would have to continue with a major having essentially the same CIP code as the when the borrower received the last Perkins payment before grandfathering took effect. A change of major from English, for example, to economics would exclude the student from further Perkins Loans to complete the baccalaureate, regardless of any impact, or lack thereof, on normal completion time for the degree.

However, a grandfathered borrower who completed the baccalaureate degree and entered a Master's Degree program at the same school could continue to receive Perkins Loans as long as the CIP code was essentially the same. It seems unlikely that this line of reasoning is what Congress originally intended by extending loans beyond the program's expiration so that a student could complete an "academic program." If Congress did not intend to fund a student's Perkins Loan eligibility beyond his current credential level, the use of CIP code is inappropriate as it does not reflect the student's credential level (e.g. baccalaureate, graduate, etc.). The use of CIP codes in this manner may allow some students to receive Perkins Loans beyond what Congress intended, and others to lose eligibility before completing their credential.

Students often change majors without changing their credential goal (e.g., BA), and without impact on time of completion. Many, if not most, students enter college without a clear idea of major or career goal. As they are exposed to more experiences and areas of knowledge, even those who thought they had identified a major preference may find an ability or liking for something else. Why would we not want to continue to support a student who has discovered a talent for economics, and a desire to make it a career, when his or her program credential will be a baccalaureate either way? Imposing a choice of changing to a better suited major at the expense of giving up financial aid is unconscionable.

The application of certain gainful employment metrics also uses CIP codes. ED treats all of an institution's undergraduate programs with the same CIP code and credential level as one "GE program," without regard to program length. As a result, a school may find that a successful program of one length is penalized by a less successful program of another length. The degree to which this approach plays out is yet to be seen.

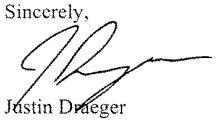
In addition and more broadly, as we mentioned in our testimony before your subcommittee, FSA is responsible for a wide array of Department of Education activities. Implementation of OPE policy can become transmuted into policy interpretation, modification, re-direction, and heightened or lowered prominence as a result of systems development, contract negotiation and execution, audit or program review, and other impinging factors.

It appears to us that technology, functionality, and the availability or unavailability of data or tools at FSA often drive policy. It is disturbing when the exigencies of a systems process seem to have the final word, so that operational procedures in effect set policy.

In these examples, the overreaches have required significant amounts of time and resources from schools to implement, time and resources that could have been better spent working with individual students and families. When schools spend more time complying with federal requirements, particularly requirements created by FSA that are not necessarily needed to implement any federal statute, students ultimately pay the price through either higher tuition to cover institutional administrative expenses or less time with college counselors. Often, the price is some combination of both.

The line between implementing policy and setting policy can become blurred, given the range of activities performed by FSA. The extent to which FSA ultimately shapes policy may realistically only be fully assessed by examining their internal deliberations and communications. Short of such a review, we can only assess using our own judgment about perceived operational overreaches. What is certain is that we believe it is vital that all aspects of policy administration operate independently from FSA. This is one of the reasons why we believe that all policy-related functions currently resident with FSA should be reabsorbed into OPE.

Sincerely,



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