

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST

CONTINENTAL SERVICE GROUP, INC.,)	
)	
Plaintiff,)	
)	
and)	
)	
PIONEER CREDIT RECOVERY, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 17-449C
)	No. 17-499C
)	(Consolidated)
THE UNITED STATES,)	
)	Chief Judge Braden
Defendant,)	
)	
and)	
)	
CBE GROUP, INC.,)	
)	
FINANCIAL MANANGEMENT)	
SYSTEMS, INC.,)	
)	
GC SERVICES LIMITED)	
PARTNERSHIP)	
)	
PREMIERE CREDIT of NORTH)	
AMERICA, LLC,)	
)	
VALUE RECOVERY HOLDINGS, LLC)	
)	
WINDHAM PROFESSIONSLA, INC.,)	
)	
Intervenors.)	

**DEFENDANT'S NOTICE OF RECALLING ACCOUNTS FROM
EXPIRING CONTRACTS, AND DEFENDANT'S NOTICE THAT IT
INTENDS TO MAINTAIN THE RECALLED ACCOUNTS
ON A NON-PRIVATE COLLECTION AGENCY CONTRACT**

Defendant, the United States, respectfully files this notice with the Court with respect to the imminent expiration of 13 private collection agency (PCA) contracts. Defendant's notice is intended to inform the Court that accounts that will be recalled from the expired contracts will

continue to be maintained by Maximus Federal Services, Inc. (MFS), the contractor who manages the agency's Debt Management and Collections System (DMCS) and who services the agency's portfolio of defaulted student loans when not assigned to a PCA.

The Department of Education (ED) currently has in place, among other contracts, 13 PCA contracts that perform collection services on defaulted student loan accounts, the same type of work covered by the procurement at issue in this protest. Decl. ¶ 6; *see* Exhibit A (chart explaining the current status of ED's PCA contracts). ED will be recalling defaulted student loan accounts from these 13 PCAs whose task orders will expire on Friday, April 21, 2017. Decl. ¶ 7. The accounts serviced under these 13 PCA contracts, similar to all defaulted accounts, have always been, and are currently contained and maintained on the database of the existing portfolio management system. Decl. ¶ 9. This is the aforementioned DMCS system managed by Maximus. A defaulted account sits on the DMCS database at the point a defaulted debt is referred for collection and remains there until the defaulted debt is resolved, regardless of whether a PCA is assigned the account or not. *Id.*

Defendant believes that continuing to maintain the recalled accounts on the DMCS contract is consistent with the TRO issued by this Court on March 29, 2017. Decl. ¶ 10. By continuing to maintain these accounts on the DMCS contract, defendant is not transferring or assigning any PCA work to any existing contract. *Id.* Rather, as we explained above, the recalled accounts are already, and have always been, contained in the database of the DMCS contract. *Id.* Out of an abundance of caution, however, defendant respectfully informs the Court that the recalled accounts will continue to be maintained on this database. The DMCS contract, managed by Maximus, operates the Federal Student Aid's Default Resolution Group (DRG). Decl. ¶ 11. The work of DRG is very limited in comparison to the work of the PCAs, in that DRG staff may answer telephone calls received from student borrowers but cannot initiate telephone collections

calls to borrowers. *Id.* The DRG has historically performed such basic account maintenance work on recalled accounts while the accounts are prepared to be placed again with a PCA. Decl.

¶ 12. Neither Maximus nor its DRG subcontractor is licensed to provide private collection agency services. *Id.* Maintaining accounts on the DMCS contract allows the ED to quickly and efficiently ascertain the status of any given defaulted student loan account. Decl. ¶ 13.

Respectfully submitted,

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Acting Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.
Director

s/ Patricia M. McCarthy

PATRICIA M. McCARTHY
Assistant Director

s/ Lauren S. Moore

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APRIL 18, 2017

Attorneys for Defendant

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AMERICA, LLC,)	
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VALUE RECOVERY HOLDINGS, LLC)	
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Intervenors.)	

DECLARATION OF PATTY QUEEN-HARPER

1. I, Patty Queen Harper, am the Contracting Officer for the U.S. Department of Education (ED)'s Debt Collection and Administrative Resolution Services.

2. Currently, I am appointed as the Contracting Officer for Solicitation No. ED-FSA-16-R-0009 (Solicitation). The Solicitation is for collection services on defaulted Federal student loans.

3. On March 29, 2017, this Court issued a temporary restraining order (TRO) in this case. That order enjoins the Department from authorizing any work under the seven private collection agency (PCA) contracts awarded in December 2016 under the Solicitation.
4. In the order, the Court also enjoined the Department from “transferring work to be performed under the contract at issue in this case to other contracting vehicles to circumvent or moot this bid protest.”
5. In light of the Court’s order, I thought it prudent to inform the Court regarding the Department’s planned actions in the next few days, when several of the Department’s 2009 PCA contracts will expire.
6. ED currently has in place, among other contracts, 13 PCA contracts dating back to 2009 to perform collection services on defaulted student loan accounts. This is the same type of work as covered by the procurement at issue in this protest.
7. On Friday, April 21, 2017, those 13 PCA task orders will expire. On Saturday, April 22, 2017, in accordance with the terms of the contracts, ED plans to recall all defaulted loan accounts still being serviced under these 13 PCA contracts.
8. Once recalled, the accounts will continue to be maintained under ED’s contract for management of the Debt Management and Collections System (DMCS). The DMCS contractor, Maximus Federal Services, Inc. (Maximus), services ED’s portfolio of

defaulted student loans when not assigned to a PCA.

9. The accounts serviced under the expiring 13 PCA contracts, similar to all defaulted accounts, have always been, and are currently contained and maintained on the database of the existing portfolio management system, the aforementioned DMCS managed by Maximus. A defaulted account sits on the DMCS database at the point a defaulted debt is referred for collection and remains there until the defaulted debt is resolved, regardless of whether a PCA is assigned the account or not.
10. I believe that continuing to maintain the recalled accounts on the DMCS contract is consistent with the TRO issued by this Court on March 29, 2017. By continuing to maintain these accounts on the DMCS contract, ED is not transferring or assigning any PCA work to any existing contract. Rather, the recalled accounts are already, and have always been, contained in the database of the DMCS contract.
11. The DMCS contract, managed by Maximus, operates the Federal Student Aid's Default Resolution Group (DRG). The work of DRG is very limited in comparison to the work of the PCAs, in that DRG staff may answer telephone calls received from student borrowers but cannot initiate telephone collections calls to borrowers.
12. The DRG has historically performed such basic account maintenance work on recalled accounts while the accounts are prepared to be placed again with a PCA. Neither Maximus nor its DRG subcontractor are licensed to provide private collection agency

services.

13. Maintaining accounts on the DMCS contract allows the ED to quickly and efficiently ascertain the status of any given defaulted student loan account.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 18th day of April, 2017.

Patty Queen-Harper
Contracting Officer

EXHIBIT A

**ACTUAL/POTENTIAL BID PROTESTS BEFORE COURT OF FEDERAL CLAIMS ON
DEPARTMENT OF EDUCATION RELATED LITIGATION**

There are two (2) procurement decisions of the Department of Education (ED) which are under protest before the Court:

- 1) the decision in April 2015 to issue award term extensions (“ATE Awards”) to five private collection agency (PCA) contracts initially awarded in 2009, and
- 2) the decision in December 2016 to award seven new PCA contracts (“December 2016 Awards”).

LITIGATION RELATED TO ATE AWARDS

The April 2015 ATE Awards are the subject of the cases consolidated as Coast Professional et al (No. 15-207C). The protesters challenge Solicitation ED-FSA-09-O-0022, issued in 2008, and more specifically a down-select in April 2015 under Clause H.4 of the contracts resulting from that Solicitation. ED awarded five ATEs and denied ATEs to four other firms. The four (4) firms who were denied ATEs are the Plaintiffs in Coast Professional et al on protest before this court.

PLAINTIFFS ON ATE LITIGATION (Coast Professional et al (No. 15-207C) – they seek new ATEs

Protestor	Date COFC Protest Filed
Coast Professional, Inc.	March 2, 2015
National Recoveries, Inc.	March 9, 2015
Enterprise Recovery Systems, Inc. (aka Alltran)	March 10, 2015
Pioneer Credit Recovery, Inc.	March 16, 2015

DEFENDANT-INTERVENORS ON ATE LITIGATION (Coast Professional et al (CIV-15-2007C) – they hold ATEs

Protestor	ATE Contract Number
GC Services	ED-FSA-15-00027
Windham Professional	ED-FSA-15-00030
FMS	ED-FSA-15-00028
ACT	ED-FSA-15-00025
Continental Services	ED-FSA-15-00029

The Department is taking voluntary corrective action in this litigation. ED will reconsider its decision to deny ATEs to the four plaintiffs. The Court has ordered parties to reconvene June 7, 2017 for a status conference.

ACTUAL/POTENTIAL BID PROTESTS BEFORE COURT OF FEDERAL CLAIMS ON
DEPARTMENT OF EDUCATION RELATED LITIGATION

LITIGATION RELATED TO DECEMBER 2016 AWARDS

On December 9, 2016, the Department of Education awarded seven indefinite delivery/indefinite quantity (IDIQ) contracts to the following vendors:

- Financial Management Service Investment Corp.;
- GC Services Limited Partnership;
- Premiere Credit of North America, LLC;
- The CBE Group;
- Transworld Systems, Inc.;
- Value Recovery Holding, LLC, and
- Windham Professionals, Inc.

The December 2016 PCA awards were initially protested at GAO by 22 of 47 offerors. The challenge is to Solicitation ED-FSA-16-R-0009, issued in December 2015. Nine (9) of the 22 protesters lost at GAO, withdrew their protests, or were dismissed by GAO. Four (4) of those (9) nine have filed complaints at the Court:

- Pioneer Credit Recovery, Inc. (GAO dismissed its protests)
- Continental Services (withdrew its GAO protest)
- Enterprise Recovery Systems, Inc. (ERS) (aka Alltran) (GAO denied its protest)
- Account Control Technology (ACT) (GAO denied its protest)

**ACTUAL/POTENTIAL BID PROTESTS BEFORE COURT OF FEDERAL CLAIMS ON
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PROTESTERS AT GAO WHO DID NOT PREVAIL, WITHDREW OR WERE DISMISSED

Protestor	Date GAO Protest Filed	Outcome at GAO	File/Appeal to COFC
Continental Service Group, Inc.	Jan. 9, 2017	Protestor withdrew its protest on March 29, 2017	Filed March 28, 2017; COFC Docket No. 17-449
Account Control Technology, Inc.	Jan. 9, 2017	GAO denied the protest on March 27, 2017	Filed April 7 COFC Docket No. 17-493
Pioneer Credit Recovery	Jan. 9, 2017	GAO dismissed the protest on March 31, 2017 as matter is related to case pending before court of competent jurisdiction	Filed April 10, 2017 COFC Docket no. 17-499
Enterprise Recovery Systems, Inc. (aka Alltran)	Jan. 9, 2017	GAO denied the protest on March 27, 2017	Filed April 12, 2017 COFC Docket no. _
Central Credit Services	Jan. 5, 2017	GAO dismissed on January 30, 2017	n/a
Financial Asset Management Systems	Jan. 9, 2017	GAO dismissed on February 6, 2017	n/a
Weitman, Weinberg & Reis, Co.	Jan. 9, 2017	GAO dismissed on February 24, 2017	n/a
Global Receivables Solutions, Inc.	Jan. 9, 2017	GAO denied the protest on March 27, 2017	n/a
Sutherland Global Services	Jan. 9, 2017	GAO denied the protest on March 27, 2017	n/a

**ACTUAL/POTENTIAL BID PROTESTS BEFORE COURT OF FEDERAL CLAIMS ON
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The other 13 GAO protesters prevailed at GAO. The Department is presently reviewing GAO's recommended corrective action.

PROTESTERS AT GAO WHOSE PROTESTS WERE SUSTAINED

Protestor	Date GAO Protest Filed	Outcome at GAO
Williams and Fudge, Inc.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Performant Recovery, Inc.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
General Revenue Corp.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Collection Technology, Inc.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Texas Guaranteed Student Loan Corp.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Van Ru Credit Corp.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Progressive Financial Services, Inc.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Automated Collection Services, Inc.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Team Automated Collection Services, Inc.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Gatestone & Co. International, Inc.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Delta Management Associates, Inc.	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Allied Interstate LLC	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.
Collecto, Inc. d/b/a EOS CCA	Jan. 9, 2017	GAO sustained the protest on March 27, 2017; recommended corrective action.

**ACTUAL/POTENTIAL BID PROTESTS BEFORE COURT OF FEDERAL CLAIMS ON
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SMALL BUSINESS CONTRACTOR POOL

Unrelated to any of the Solicitations and award decisions which are the subject of the above litigations, ED has held contracts with 11 small business firms for several years. Those awards were issued on September 30, 2014. The first of these eleven firms began performing collection services under those contracts in November 2015. Since November 2015, on a monthly basis, ED has transferred accounts needing collection services to some or all of these 11 small businesses. There are no bid protests or other litigation related to the award or administration of these contracts.

ED'S SMALL BUSINESS PCA CONTRACTORS

Small Business Contractor	Contract Number	Award Effective Date
Action Financial	ED-FSA-14-D-0010	September 30, 2014
Bass & Associates	ED-FSA-14-D-0011	September 30, 2014
Central Research, Inc.	ED-FSA-14-D-0012	September 30, 2014
Credit Adjustments Inc.	ED-FSA-14-D-0013	September 30, 2014
F.H. Cann & Associates, Inc.	ED-FSA-14-D-0014	September 30, 2014
Professional Bureau of Collections of Maryland, Inc.	ED-FSA-14-D-0015	September 30, 2014
Reliant Capital Solutions, LLC	ED-FSA-14-D-0016	September 30, 2014
Immediate Credit Recovery, Inc.	ED-FSA-14-D-0017	September 30, 2014
National Credit Services, Inc.	ED-FSA-14-D-0018	September 30, 2014
National Recoveries, Inc.	ED-FSA-14-D-0019	September 30, 2014
Coast Professional, Inc.	ED-FSA-14-D-0020	September 30, 2014

**ACTUAL/POTENTIAL BID PROTESTS BEFORE COURT OF FEDERAL CLAIMS ON
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PCA CONTRACTS EXPIRING APRIL 21, 2017

On Friday, April 21, 2017, thirteen (13) of the 2009 PCA task orders will expire. On Saturday, April 22, 2017, the Department plans to recall the accounts being serviced under those task orders. The accounts that are recalled will be held and maintained under ED's Default Management Collections System (DMCS) contract. The recalled accounts will not be transferred to any PCA, in accordance with the Court's Temporary Restraining Order. The 13 contractors whose 2009 PCA task orders expire April 21, 2017 are:

PCA CONTRACTS EXPIRING APRIL 21, 2017

Name of PCA	End of Period of Performance	Dec 2016 awards	Disposition of GAO Protest	Coast Prof case Corrective Action
Allied Interstate LLC	April 21, 2017	n/a	Sustained	
The CBE Group	April 21, 2017	Awardee	n/a	
Collection Technology, Inc. (CTI)	April 21, 2017	n/a	Sustained	
Collecto, Inc. d/b/a EOS CCA	April 21, 2017	n/a	Sustained	
Delta Management Associates	April 21, 2017	n/a	Sustained	
Enterprise Recoveries Systems, Inc. (aka Alltran)	April 21, 2017	n/a	Denied	Pending
Financial Asset Management Systems, Inc.	April 21, 2017	n/a	Dismissed	
Performant Recovery, Inc.	April 21, 2017	n/a	Sustained	
Premiere Credit of North America, LLC	April 21, 2017	Awardee	n/a	
Progressive Financial Services, Inc.	April 21, 2017	n/a	Sustained	
Transworld Systems, Inc.	April 21, 2017	Awardee	n/a	
Van Ru Credit Corp.	April 21, 2017	n/a	Sustained	
Global Receivables Solutions, Inc.	April 21, 2017	n/a	Denied	