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VIA FAX TO: (202) 401-0920

U.S. Department of Education
Office of Management
Regulatory Information Management Services
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ATTN: FOIA Public Liaison

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Dear FOIA Public Liaison:

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”).

EPIC seeks documents related to private debt-collection companies that have contracts with the Department of Education for the collection of federal student loans that have gone into default. Specifically, EPIC seeks the department’s manual of procedures that governs these debt collectors, as well as several types of compliance reports (described in detail below) that show whether debt collectors are adequately protecting the privacy of student borrowers.

Background

The Department of Education relies heavily on private debt collectors to recoup money from borrowers who have defaulted on student loans.¹ As the total amount of outstanding student debt rises, private collection firms view student loans as a burgeoning market and are aggressively seeking contracts with the department.² Last year, the department paid about \$355 million to private companies to collect on defaulted student loans.³ The department has contracts with at least twenty-three private debt collectors.⁴

¹ Andrew Martin, *Debt Collectors Cashing in On Student Loan Roundup*, N.Y. Times, Sept. 9, 2012, at A1; John Hechinger, *Obama Relies on Debt Collectors Profiting From Student Loan Woe*, Bloomberg (Mar. 26, 2012), <http://www.bloomberg.com/news/2012-03-26/obama-relies-on-debt-collectors-profiting-from-student-loan-woe.html>.

² Mark Russell, *Student Loans: The ARM Industry’s New Oil Well?*, InsideArm.com (Oct. 20, 2011), <http://www.insidearm.com/obs-in-focus/student-loans-the-arm-industrys-new-oil-well/>.

³ Andrew Martin, *Debt Collectors Cashing in On Student Loan Roundup*, N.Y. Times, Sept. 9, 2012, at A1.

⁴ *Id.*; see also *Contacting Collection Agencies*, http://www.myeddebt.com/borrower/myoptions_collectionAgencies (last visited Sept. 20, 2012).

Some of these debt collectors have been accused of abusive or unsavory tactics.⁵ Last year, the department received 1,406 complaints about its collection contractors, a 41% increase from the previous year.⁶ In particular, the outsourcing of student loan collections raises important concerns about borrowers' privacy. Private debt collectors, which unlike the department are unaccountable to voters, are being entrusted with the sensitive personal and financial data of student borrowers. Under the Privacy Act of 1974, the department may release certain information about student borrowers to collection firms, but those firms must in turn abide by the Privacy Act safeguards.⁷

To instruct debt collectors on federal privacy laws and other important federal requirements, the department publishes a detailed manual, which it distributes to the private collection agencies, or "PCAs," that have contracts with the department.⁸ A copy of the 2009 "PCA Procedures Manual" is available on the World Wide Web.⁹ But no updated version of the manual is currently publicly available, either on the department's web site or elsewhere. The department set up a web site with information for its collections contractors, but the site has not been updated since 2009.¹⁰

Collection firms with Department of Education contracts are required to submit various compliance and disclosure reports on a regular basis.¹¹ At least three such reports deal with privacy issues. First, each collection firm employee working on student loan collections must sign a "Certification of Privacy Act Training" form.¹² This form certifies that the employee has received the proper annual privacy training, and the collection firm must file the form with the department.¹³ Second, collection firms are required to submit to the department monthly electronic "Quality Control Reports," which must include a section on privacy and must disclose any problems and corrective actions.¹⁴ Third, firms must submit "Security Awareness and Privacy Act Training Reports," which must state the date of the firm's last privacy training.¹⁵

⁵ Andrew Martin, *Debt Collectors Cashing in On Student Loan Roundup*, N.Y. Times, Sept. 9, 2012, at A1; John Hechinger, *Obama Relies on Debt Collectors Profiting From Student Loan Woe*, Bloomberg (Mar. 26, 2012), <http://www.bloomberg.com/news/2012-03-26/obama-relies-on-debt-collectors-profiting-from-student-loan-woe.html>.

⁶ John Hechinger, *Obama Relies on Debt Collectors Profiting From Student Loan Woe*, Bloomberg (Mar. 26, 2012), <http://www.bloomberg.com/news/2012-03-26/obama-relies-on-debt-collectors-profiting-from-student-loan-woe.html>.

⁷ 5 U.S.C. § 552a (2012).

⁸ Federal Student Aid Operation Services Processing Division, *PCA Procedures Manual: 2009 ED Collections Contract* (Sept. 2009), available at <http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/2007/03/2009-pca-procedures.pdf>.

⁹ *Id.*

¹⁰ FSA Private Collection Agencies, <http://www.fsacollections.ed.gov/pca/index.html> (last visited Sept. 20, 2012).

¹¹ Federal Student Aid Operation Services Processing Division, *PCA Procedures Manual: 2009 ED Collections Contract* 262-70 (Sept. 2009), available at <http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/2007/03/2009-pca-procedures.pdf>.

¹² *Id.* at 262-63, 265.

¹³ *Id.*

¹⁴ *Id.* at 267-68.

¹⁵ *Id.* at 270.

All three of these compliance reports are matters of significant public interest, because they represent the primary oversight mechanism for determining whether numerous federal contractors are adequately protecting the privacy of student-loan borrowers.

Documents Requested

EPIC requests copies of the following agency records:

1. The most currently updated version of the "PCA Procedures Manual" that the Department of Education publishes as guidance for its debt-collection contractors. The 2009 version of this manual was prepared by the Federal Student Aid Operation Services Processing Division.
2. All "Certification of Privacy Act Training" forms, "Quality Control Reports," and "Security Awareness and Privacy Act Training Reports" submitted by private debt-collection firms to the Department of Education during the last three years.

Request for "News Media" Fee Status

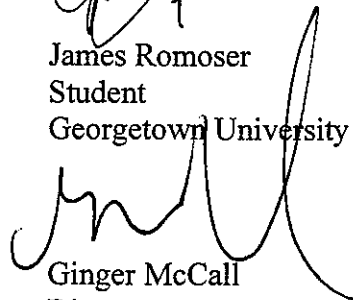
EPIC is a "representative of the news media" for fee waiver purposes.¹⁶ Based on our status as a "news media" requester, we are entitled to receive the requested record with only duplication fees assessed. Further, because disclosure of this information will "contribute significantly to public understanding of the operations and activities of the government,"¹⁷ any duplication fees should be waived.

Thank you for your consideration of this request. As 28 C.F.R. § 16.5(d)(4) provides, I will anticipate your determination on our request within ten calendar days. If you have any questions please contact me at 202-483-1140 x 102 or foia@epic.org.

Respectfully Submitted,



James Romoser
Student
Georgetown University Law Center



Ginger McCall
Director
EPIC Open Government Project

¹⁶ EPIC v. Dep't of Def., 241 F. Supp. 2d 5, 14 (D.D.C. 2003).

¹⁷ 5 U.S.C. § 552(a)(1)(4)(A)(iii).