UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

APR 23 2002

Mr. Carl C. Dalstrom
President and CEO
United Student Aid Funds, Inc.
P.O. Box 6028
Indianapolis, IN 46206-6028

Dear Mr. Dalstrom:

Enclosed is our final report (Control Number ED-OIG/A05-B0033) entitled, *United Student Aid Funds, Inc.'s Administration of the Federal Family Education Loan Program Federal and Operating Funds*. The report incorporates the comments you provided in response to the draft audit report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on the audit:

Greg Woods, Chief Operating Officer
Federal Student Aid
U.S. Department of Education
Union Center Plaza, Room 112G1
830 First Street, NE
Washington, D.C. 20202

Office of Management and Budget Circular A-50 directs Federal agencies to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available, if requested, to members of the press and the general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

Thomas A. Carter
Assistant Inspector General for Audit Services

Attachment

United Student Aid Funds, Inc.'s Administration of the Federal Family Education Loan Program Federal and Operating Funds

FINAL AUDIT REPORT
ED-OIG/A05-B0033
April 2002

Our mission is to promote the efficiency, effectiveness, and integrity of the Department's programs and operations

U.S. Department of Education
Office of Inspector General
Chicago, Illinois

NOTICE

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

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United Student Aid Funds, Inc.'s Administration of the Federal Family Education Loan Program Federal and Operating Funds

Control Number ED-OIG/A05-B0033

EXECUTIVE SUMMARY

Except for the findings discussed in this report, United Student Aid Funds, Inc. (USAF) generally complied with the Higher Education Act of 1965 (HEA), as amended, while establishing and maintaining its Federal and Operating Funds during the period October 1, 1998 through September 30, 2000. We identified two findings:

- USAF did not deposit into the Federal Fund about $6,626,000 earned on the federal share of collections while they remained in non-federal accounts. According to 34 C.F.R. § 682.410 (a) (5) (1998), a guaranty agency must exercise the level of care required of a fiduciary charged with investing the money of others while administering federal funds. Based on this long-standing principle, all earnings attributable to federal funds while held by the guaranty agency or its agent should follow those funds.

- USAF's guarantee servicing contracts do not provide the separation of duties required by 34 CFR § 682.404 (k) (4) (July 1, 2000). The same entity holds and services loans guaranteed by USAF and performs guarantee servicing, including default aversion and post-default collection activities, for USAF. There is an inherent conflict of interest when an outside entity performs default aversion and either holds/services or performs post-default collection activities for the same loans. As a result, the potential to manipulate default aversion and collection activities is greater than it would be if a separate entity performed default aversion activities.

We recommend that the Chief Operating Officer (COO) for Federal Student Aid (FSA) require USAF to return $6,626,000 to the Federal Fund and comply with federal regulations regarding default aversion activities.

We provided USAF a draft report. USAF did not agree with our findings. We paraphrased USAF's comments after each finding and also included them in their entirety as an Attachment.

AUDIT RESULTS

During the period October 1, 1998 through September 30, 2000, except for the findings discussed below, USAF generally complied with the HEA, as amended, while establishing and maintaining its Federal and Operating Funds. USAF elected not to transfer funds from the Federal Fund to the Operating Fund under § 422A (f) of the HEA; therefore, USAF was not required to adhere to the prohibited uses of assets regulations. Also, USAF's Federal Fund had no fixed assets; so, usage fees were not due from the Operating Fund. USAF's cost allocation plan generally complied with Office of Management and Budget (OMB) Circular A-87 during the period it had shared costs, except it did not obtain certifications for employees who had 100 percent of their time charged to one cost center. As of August 2000, USAF became a separate entity and no longer received allocated costs from affiliated companies.

Finding 1 – Interest Owed to the Federal Fund

USAF did not deposit into the Federal Fund about $6,626,000 earned on the federal share of collections. USAF initially deposited the federal share of post-default collections collected from October 1998 through June 2000 in non-federal accounts. During this time, both USAF and its affiliated servicer, USA Group Guarantee Services, Inc., received post-default collections. The federal share remained in the Operating Fund and USA Group Guarantee Services, Inc. accounts earning interest for an average of 74 days (ranging from about 32 to 224 days) before USAF deposited the federal share without interest into the Federal Fund.

A guaranty agency must exercise the level of care required of a fiduciary charged with investing the money of others while administering federal funds. 34 C.F.R. § 682.410 (a) (5) (1998). This is a long-standing principle in the Federal Family Education Loan (FFEL) program[1]. Based on this principle, all earnings attributable to federal funds while held by the guaranty agency or its agent should follow those funds. Consistent with this fiduciary obligation, the U.S. Department of Education (Department) issued guidance instructing guaranty agencies to deposit into the Federal Fund any investment income earned on the federal share between October 1, 1998 and September 1, 2000. Dear Guaranty Agency Director Letter G-00-328 (July 18, 2000).

[1] Education Assistance Corp. v. Cavazos, 902 F.2d 617, 627 (8th Cir. 1990), cert. denied 111 S.Ct. 246 (1990): "Here, federal law dictates the existence, content and uses of [the guaranty agency's] reserve fund and provides that the fund be maintained for the limited purpose of servicing the [Guaranteed Student Loan program] established by Congress. [The guaranty agency's] interest in the fund is analogous to that of a trustee holding money for the benefit of another. In this case, the beneficiary is the general public."

Ohio Student Loan Com'n v. Cavazos, 900 F.2d 894, 899 (6th Cir. 1990), cert. denied 111 S.Ct. 245 (1990): "In the instant case, though the [Ohio Student Loan Commission] retains some control over the funds, its role is akin to that of a trustee..."

USAF did not agree that it was required to deposit into the Federal Fund interest earned while the federal share remained in a non-federal account prior to July 1, 2000. According to USAF, the regulations and other guidance did not indicate where to deposit collections as of October 1, 1998. The HEA only required that the federal share be remitted to the Department. Because the Department nets collections against reinsurance payments, USAF stated that it interpreted the law to require that the federal share be deposited into the Federal Fund no later than when reinsurance was received. Based on its interpretation, USAF did not deposit interest attributable to the federal share into the Federal Fund from October 1998 to June 2000. After June 2000, USAF deposited the interest attributable to the federal share into the Federal Fund. Beginning April 2001, USAF deposited the federal share into the Federal Fund within 48 hours of receipt.

USAF estimated that the interest earned on the federal share collected from October 1998 through June 2000 while it was in non-federal accounts totaled about $5,450,000. For example, the federal share USAF and its servicer collected during August 1999 totaled about $32,561,000. USAF deposited this amount into the Federal Fund on September 27, 1999. USAF assumed the federal share was collected evenly during August 1999. It estimated the federal share was in a non-federal account for about 42 days. Using an estimated interest rate of 4.3 percent, USAF estimated that the federal share for August 1999 earned about $159,000. Using estimated interest rates ranging from 3.3 to 5.6 percent and estimated lapsed days ranging from 32 to 224 days, USAF followed the same process for each month to estimate that the federal share earned about $5,450,000 while it was in the non-federal accounts. USAF attributed about $5,141,000 to USA Group Guarantee Services, Inc. and $309,000 to the Operating Fund.

We concluded that USAF's method was generally reasonable for estimating the amounts and the period of time USAF held the federal share in non-federal accounts. By applying the 5 percent U.S. Treasury Current Value of Funds Rate to USAF's monthly calculations rather than using USAF's estimated interest rates, we estimated that about $6,626,000 in imputed interest was due to the Federal Fund. This consisted of $6,288,000 and $338,000 attributable to periods federal funds were held by USA Group Guarantee Services, Inc. and the Operating Fund, respectively. USAF allowed its former affiliate, USA Group Guarantee Services, Inc. (now part of USA Education, Inc.), to retain the earnings generated while it held federal funds.

Prior to our audit period, a USAF official informed us that USAF followed similar collection procedures. As a result, interest earned on the federal share would not have followed federal funds. On February 28, 1996, USAF and the Department entered into a written agreement wherein the parties settled any claim the Department may have had up to September 30, 1995. Therefore, USAF may also owe imputed interest on the federal share earned from October 1995 to September 1998 to the Federal Fund.

Recommendations

We recommend that the COO for FSA require USAF to

1.1 Transfer $6,626,000 from the Operating Fund to the Federal Fund for imputed interest the federal share collected from October 1998 to June 2000 earned while it remained in a non-federal account.

1.2 Determine the amount of imputed interest earned on the federal share collected from October 1995 to October 1998 while it remained in a non-federal account and transfer it from the Operating Fund to the Federal Fund.

1.3 Recover $6,288,000 discussed in Recommendation 1.1 plus the amount determined in Recommendation 1.2 from USA Education, Inc. to make the Operating Fund whole.

USAF Comments – USAF responded that the HEA does not list the Secretary's equitable share of post-default collections as a source of funds for the Federal Fund, it merely says that the Secretary is to be paid that share. Therefore, the statute is silent as to where a guaranty agency is to deposit the Secretary's equitable share of post-default collections, and absent Department guidance, the guaranty agencies used their best judgment. On July 18, 2000, the Department issued guidance that retroactively required guaranty agencies to deposit into the Federal Fund any interest income earned on the federal share of collections from October 1, 1998.

USAF believes the Department was unlawful and strongly objects to the Department's retroactive application in violation of § 482 (c) of the HEA. In a letter dated September 4, 2001, the Department acknowledged the issue of retroactive application of the regulation must be further reviewed for its legality. Thus, USAF will not transfer any monies to the Federal Fund until the Department's review is completed. At that time, based upon the outcome of the review, USAF will further evaluate if any actions are warranted.

Also, from October 1998 to June 2000, USA Group Guarantee Services, Inc. purchased claims from lenders on behalf of USAF. However, during the first seven months of this period, USAF's Federal Fund failed to reimburse USA Group Guarantee Services, Inc. on a timely basis for some claim payments and the default aversion fee was not timely transferred from the Federal Fund to the Operating Fund. Using the same interest rate as the recommendation for this finding, the Federal Fund earned potentially $3 million in interest that would offset the alleged adverse impact to the Federal Fund.

OIG Response – We made minor changes to the report to address some of USAF's comments. However, USAF's response did not alter our position. It is well established that guaranty agencies have a fiduciary responsibility to the public, and must treat federal funds as a trustee holding money for the benefit of another. As a trustee, a guaranty agency must invest funds held in trust, and the beneficiary must receive the benefit of all attributable interest. The HEA and implementing regulations confirm a guaranty agency's fiduciary responsibility. Section 422A (b) required that federal funds be invested and specified that the earnings are the sole property of the Federal Government. With respect to the Federal Fund, the implementing regulations required guaranty agencies to exercise the level of care required of a fiduciary charged with the duty of protecting, investing, and administering the money of others. 34 C.F.R. § 682.419 (a) (effective July 1, 2000). The Department also issued guidance to the guaranty agencies reminding them that their fiduciary responsibility required them to deposit investment income earned on the federal share between October 1, 1998, and September 30, 2000 into the Federal Fund. Dear Guaranty Agency Partner Letter (November 15, 1999) and Dear Guaranty Agency Director Letter G-00-328 (July 18, 2000). Although USAF argued that the Department's instructions on payment of interest were not binding prior to July 1, 2000, USAF provided no authority that would permit a trustee to retain for its own account interest earned prior to receiving a beneficiary's instructions for payment of that interest.

Regarding USAF's claim of an offset of approximately $3 million, this is an issue between USAF and its servicer, not USAF and the Federal Fund. The law does not specify interest on late payments to a servicer as an authorized use of the Federal Fund. The information USAF provided is not sufficient to determine the validity or the amount of the potential claim by its servicer. If a claim exists, it would be an operating expense payable from the Operating Fund.

Finding 2 – Servicing Contracts Cause a Conflict of Interest

USAF contracted with the same entity to service its loans, including default aversion and post-default collection activities. According to 34 C.F.R. § 682.404 (k) (4) (July 1, 2000), if a guaranty agency contracts with an outside entity to perform any default aversion activities, that outside entity may not hold or service the loan; or perform collection activities on the loan in the event of default within three years of the claim payment date. There is an inherent conflict of interest when an outside entity performs default aversion and either holds/services or performs post-default collection activities for the same loans. This conflict exists because the success of servicing affects the volume of loans that reach default aversion, which in turn affects the volume of loans that reach post-default collections.

After Sallie Mae Holding Corporation purchased substantially all the assets of USA Group on July 31, 2000, its successor, USA Education, Inc., assumed all guarantor servicing contracts that USA Group had with USAF. USA Education, Inc. is the largest holder of loans in the FFEL program. It services its own loans, as well as the loans of other lenders. USA Education, Inc.

then assigned the guarantee servicing and default aversion activities contracts between USAF and USA Group Guarantee Services, Inc. to its wholly owned subsidiaries, Sallie Mae Servicing, L.P. and Student Assistance Corporation, respectively. Another subsidiary, the Student Loan Marketing Association, holds loans guaranteed by USAF for which Student Assistance Corporation may perform default aversion activities. As a result, USA Education, Inc. and its subsidiaries hold and service loans guaranteed by USAF and perform guarantee servicing, including default aversion and post-default collection activities, for USAF.

On July 24, 2000, USAF notified the Department of its plan to use separate entities within USA Education, Inc. to perform both default aversion and post-default collection activities. USAF views USA Education, Inc.'s subsidiaries as separate corporate entities and, therefore, believes its contracts with USA Education, Inc. do not violate the federal regulations. USAF illustrated that the goal of its default aversion fee structure is to provide Student Assistance Corporation sufficient financial incentive to maximize default aversion activity on behalf of USAF, even if another subsidiary of USA Education, Inc. performs post-default collection activity.

As a holding company, USA Education, Inc. has 100 percent ownership interest in both companies and issued consolidated financial statements to the Securities and Exchange Commission. Therefore, one entity controls USAF's contracts for both post-default collections and default aversion activities. USAF's guarantee servicing contracts with USA Education, Inc. do not provide the separation of duties required by 34 CFR § 682.404 (k) (4) (July 1, 2000). The potential for USA Education, Inc. to manipulate default aversion and collection activities is greater than it would be if a separate entity performed default aversion activities.

Recommendation

We recommend that the COO for FSA require USAF to

2.1 Cure the conflict of interest with respect to default aversion and post-default collection services.

USAF Comments – USAF agrees that it contracts with a subsidiary of USA Education, Inc., Student Assistance Corporation, for default aversion services. USAF also contracts with other USA Education, Inc. affiliates who perform servicing and post-default collection activities. USAF considers all of USA Education, Inc.'s subsidiaries separate legal entities within the USA Education, Inc. family of companies, and none of these subsidiaries controls another. USAF further supports its position by using the Black's Law Dictionary definition of the word "entity" meaning a single corporation or organization that possesses separate existence for tax purposes. USAF also asserts that language that directly barred affiliates in earlier regulations related to supplemental preclaims assistance was excluded from the new regulations on default aversion activities. USAF concludes that it is not in violation of 34 C.F.R. § 682.404 (k) (4) (July 1,

2000) because Student Assistance Corporation does not hold, service or perform post-default collection activities on loans. USAF also assumed the Department accepted its current process, as the Department never responded to its letter that described its plan to contract with affiliated companies for both default aversion and post-default collection activities.

OIG Response – USAF's comments did not alter our position. The current regulation and its use of the term "outside entity" must be applied in a way that gives effect to the conflict of interest rule. Based on USAF's argument, a servicer could easily and readily evade the rule simply by separately incorporating an internal component. The fact that USA Education, Inc. and its subsidiaries are required to file consolidated financial statements with the Securities and Exchange Commission supports that they are considered a single entity. USA Education, Inc.'s complete ownership and control of all the subsidiaries that perform default aversion, loan servicing, and post-default collection activities for USAF confirms a violation of 34 C.F.R. § 682.404 (k) (4) (July 1, 2000).

BACKGROUND

The 1998 amendments to the HEA of 1965, enacted on October 7, 1998, required each guaranty agency to establish a Federal Fund and an Operating Fund within 60 days. The final date for establishing these funds was December 6, 1998. Unless otherwise specified, the 1998 amendments to the HEA were effective October 1, 1998. FSA issued interim guidance in January and November 1999, and published regulations relating to the Federal and Operating Funds on October 29, 1999.

All funds, securities and other liquid assets of the guaranty agency's FFEL program reserve fund were to be transferred to the Federal Fund, which is the property of the Federal Government. The HEA required a guaranty agency to deposit revenue from specified sources into the Federal Fund and also specified the uses of Federal Fund assets. The HEA also specified deposits into the Operating Fund and the general uses of Operating Fund assets. Except for funds transferred from the Federal Fund, the Operating Fund is the property of the guaranty agency. If the Operating Fund contains transferred funds owed to the Federal Fund, it may be used only as permitted by the regulations, which prohibit certain uses of reserve funds.

USAF, established in 1960 as a nonprofit education loan guarantor, is the nation's largest guarantor of education loans and the designated guarantor in nine states. USAF's sole member was USA Group through July 31, 2000. USA Group eventually became the Lumina Foundation for Education. Certain directors of the Lumina Foundation are also trustees of USAF. Effective August 1, 2000, USAF is the sole member of Secondary Market Services Corp.- Hawaii. USAF has no financial interest in and limited transactions with the secondary market.

On July 31, 2000, Sallie Mae Holding Corporation acquired substantially all of the assets of USA Group's affiliates, including USA Group Guarantee Services, Inc. Sallie Mae Holding Corporation was subsequently renamed USA Education, Inc. USA Group Guarantee Services, Inc. as an entity was dissolved as of August 1, 2000. USA Education, Inc. is USAF's guarantor servicer.

AUDIT OBJECTIVE, SCOPE, AND METHODOLOGY

The purpose of our audit was to determine whether USAF complied with the HEA and regulations governing the establishment and operation of the Federal and Operating Funds, during the period October 1, 1998 through September 30, 2000. Specifically, we evaluated the areas of (1) initial establishment of the two funds, (2) continued operations of the two funds, (3) the Operating Fund's compliance with prohibited uses of assets regulations, (4) ownership of nonliquid assets and usage fees paid, and (5) reasonableness of the cost allocation plan.

To accomplish our objectives, we judgmentally selected and reviewed (1) fiscal year (FY) 1999 records relevant to the establishment of the Federal and Operating Funds, (2) five accounting transactions that occurred during FY 1999 related to the transfer of funds from the Federal Fund to the Operating Fund, and (3) supporting documentation for USAF's shared operating expenses in FY 1999. We judgmentally selected one month from each of four time frames in which USAF's accounting procedures changed and reviewed all transactions for the distribution of post-default collections. We also reviewed USAF's accounting for (1) FY 1999 and 2000 4th quarter account maintenance fees payments, (2) supplemental preclaims assistance received in FY 1999, and (3) all transactions related to the transfer of default aversion fees in FY 1999 and two judgmentally selected months in FY 2000. We reviewed USAF's financial and OMB Circular A-133 reports for the years ended September 30, 1998, 1999 and 2000, to determine whether there were significant findings related to our audit. We reviewed the FY 1999 and 2000 supporting working papers of the independent public accountant that performed those audits. We also interviewed various USAF personnel and FSA officials.

To achieve our audit objectives, we relied on computer-processed data contained in USAF's automated general ledger system, People Tools. To assess the reliability of these data, we relied on the work completed by the independent public accountant and completed additional tests. Based on these tests and assessments, we concluded the data were sufficiently reliable to be used in meeting our objectives.

We conducted our field work from July 30, 2001 through December 28, 2001. We performed the majority of our field work at USAF's location in Indianapolis, Indiana and additional analysis at our office. We performed our audit in accordance with government auditing standards appropriate to the scope of review described above.

STATEMENT ON MANAGEMENT CONTROLS

As part of our audit, we made an assessment of USAF's management control structure, policies, procedures, and practices applicable to USAF's administration of the FFEL program. We performed the control risk assessment to assist us in determining the nature, extent, and timing of the substantive tests needed to accomplish our audit objectives.

To make our assessment, we identified significant controls and classified them into the following categories:

- Establishment of the Federal and Operating Funds
- Maintenance of the Federal and Operating Funds
- Ownership of fixed assets used to administer the FFEL program
- Transfers of assets from the Federal Fund to the Operating Fund
- Transactions involving the Federal Reserve Fund prior to the establishment of the Federal and Operating Funds which significantly impacted the opening balances of those funds

Due to inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the control structure. However, we identified weaknesses in USAF's controls over the maintenance of its Federal and Operating Funds. We describe the weaknesses in the Audit Results section.

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March 14, 2002

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Mr. Richard Dowd
Regional Inspector General for Audit
Department of Education – Office of the Inspector General
111 N. Canal Street, Suite 940
Chicago, IL 60606

Dear Mr. Dowd;

We write in response to the *Draft Audit Report* (Control Number ED-OIG/A05-B0033) regarding the audit of United Student Aid Funds, Inc.'s ("USA Funds") Administration of the Federal Family Education Loan ("FFEL") Program Federal and Operating Funds during the period October 1, 1998 through September 30, 2000. We do not concur with either of the two findings noted in the report. Our specific response for each finding is set on the following pages. Because we do not agree with either finding, we will take no corrective action unless directed by the Chief Operating Officer of Federal Student Aid.

We appreciate the opportunity to exchange views on these important issues and the professional manner in which the audit was conducted.

Sincerely,

Carl C. Dalstrom

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Response to Finding 1

USA Funds respectfully disagrees with Finding 1. Finding 1 concludes that the Federal Fund is understated more than $6 million because certain interest earned on the federal share of post-default collections was not credited to the Federal Fund, or its predecessor the Guarantor Reserve Fund. An understanding of the history of the guarantor funding model and a fair interpretation of the applicable regulations both support USA Funds' accounting treatment of the federal share of post-default collections over the life of the FFEL program. Moreover, the Master Calendar provision of the Higher Education Act bars application of the subject regulation prior to July 1, 2000.

I. The Prior Guarantor Funding Model

Due to the breadth of the finding, we must begin with the guarantor funding model that was in effect prior to the 1998 amendments to the Higher Education Act. Under the prior guarantor funding model, guarantors were required to remit the Secretary's equitable share of post-default collections to the Secretary within 45 days of collection. 34 C.F.R. § 682.404(g)(2). Failure to remit within 45 days resulted in the guarantor being assessed interest charges by the Department upon submission of the Form 1189. There was no express statutory, or regulatory, or even informal guidance, that directed a guarantor to deposit the monies into the Guarantor Reserve Fund within any timeframe. Any claim that USA Funds had a fiduciary duty, even absent direction from the Department, to deposit the Secretary's equitable share of post-default collections into the Guarantor Reserve Fund within 48 hours is inconsistent with the Department setting an interest assessment for taking more than 45 days to transfer monies from one federally owned fund (the Guarantor Reserve Fund) to another federally owned fund at the Department. There would be no justification for an interest penalty if the federal government was already credited with the interest. The sole directive from the Department was to remit the Secretary's equitable share to the Secretary within 45 days, and USA Funds fully complied with such requirement.[1]

Given the standard of 45 days outlined in the regulation in effect at the time for remitting the federal share of collections to the Secretary, it is inappropriate to retroactively apply the newly enacted regulation to any period prior to July 1, 2000, as per the Master Calendar provisions found in section 482(c) of the Higher Education Act. It is even more inappropriate to retroactively apply the regulation prior to October 1998,

[1] The Department reviewed the financial operations of USA Funds in September 1990. As a result of this review, the Department, **recommended** that USA Funds attempt to reduce the length of time involved between receipt of collection payments by the collection agency and transfer of these funds to USA Funds and suggested the use of electronic funds transfer. This was a recommendation, not a directive, and the Department did not make any claim to the interest on the monies prior to their deposit into the Guarantor Reserve Fund.

when guarantors operated under the prior guarantor funding model.[2] Therefore, recommendation 1.2 on page 3 of the Draft Audit Report is entirely inappropriate.[3]

II. The Current Guarantor Funding Model

The majority of Finding 1 addresses treatment of the Secretary's equitable share of post-default collections from October 1998 to June 2000, i.e., after the enactment of the current guarantor funding model. The finding states that as of October 1998 guarantors must deposit the federal share of collections into their Federal Fund within 48 hours of receipt. USA Funds believes it has treated the Secretary's equitable share of post-default collections consistent with the language of the Higher Education Act, the intent of Congress, and prospective regulations effective July 1, 2000.

A. The Statute Does not Require that the Secretary's Equitable Share be Deposited into the Federal Fund

It is telling that section 422A of the Higher Education Act does not list the Secretary's equitable share of post-default collections as a source of funds for the Federal Fund. The statute lists in detail the intended sources. The omission of the Secretary's equitable share of post-default collections, not a trivial item, is more than a scrivener's error, it is consistent with the intended, limited role of the Federal Fund.[4] Section 428(c)(2)(D) of the Higher Education Act says that the Secretary's equitable share is to be paid to the Secretary. It does not say that the Secretary's equitable share is to be deposited into the Federal Fund. Therefore, the statute is silent as to where a guarantor is to deposit the Secretary's equitable share of post-default collections, and absent Department guidance, the guarantors were left to make their best judgment.

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[2] The Department does not have a claim to interest prior to September 30, 1995 on the Secretary's equitable share of collections allegedly due the Federal Reserve Fund. On February 28, 1996, USA Funds and the Department of Education entered into a written settlement agreement wherein the parties settled any claim the Department may have had.

[3] There was no indication during the audit that the treatment of the Secretary's equitable share of post-default collections under the prior guarantor funding model was within the scope of the audit. The topic was never even a minor part of any discussion.

[4] The Higher Education Act does not direct a guarantor to deposit the Secretary's equitable share of post-default collections into the Agency Operating Fund prior to payment to the Secretary. Section 422B(c) defines what is to be deposited into the Agency Operating Fund. It provides that the guarantor's retention is to be deposited into the Agency Operating Fund, **after payment of the Secretary's equitable share and excluding the complement of the reinsurance percentage deposited in the Federal Fund.** Note that 422B(c) does not say that the Secretary's equitable share is to be deposited into the Federal Fund along with the complement of the reinsurance. Again, it is not a scrivener's error that 422B(c) says only the complement of the reinsurance is to be deposited into the Federal Fund.

B. The Developers of the Current Guarantor Funding Model did not Intend for the Secretary's Equitable Share to be Deposited into the Federal Fund

The underlying premise of Finding 1 is that Congress intended, notwithstanding the absence of express, statutory language (see above), for the Secretary's equitable share to be deposited into the Federal Fund. The Federal Fund was designed as a limited purpose fund. Its role was narrowly defined by express sources and uses. HEA § 422A(c) & (d). The purpose of the Federal Fund was not to operate as a working account – that was the role of the Agency Operating Fund. While it is true that the Department, on a monthly basis, netted the Secretary's equitable share against claim payments due the Federal Fund, this was an administrative convenience for the Department and does not expand the limited role of the Federal Fund. It was an entirely reasonable interpretation of the Higher Education Act for USA Funds to deposit the Secretary's equitable share into the Agency Operating Fund and to transfer the Secretary's equitable share into the Federal Fund consistent with the monthly netting against claim payments.

C. The Secretary's Retroactive Instructions are Unlawful

The regulations implementing the guarantor funding model require that the federal share of post-default collections be deposited into the Federal Fund within 48 hours of collection. 34 C.F.R. § 682.419(b)(6). We do not challenge that industry negotiators agreed that the Secretary's equitable share was to be deposited into the Federal Fund. This is not surprising as guarantors were already depositing the Secretary's equitable share into the Federal Fund due to the monthly netting against claim payments. The new requirement that funds be deposited within 48 hours was not agreed to by the negotiators, nor was it the subject of negotiations or presented in the NPRM language for public comment. This clearly represents a new regulatory requirement and is arguably a violation of the Administrative Procedures Act.

The regulation in question was not published until October 29, 1999, with an effective date of July 1, 2000. Informal clarifying guidance was issued via a Dear Guaranty Agency Partner letter on November 15, 1999. In this letter, the Department directed guarantors to promptly deposit the Secretary's equitable share into the Federal Fund. It was not until July 18, 2000 that the Department issued guidance that retroactively required guaranty agencies to deposit into the Federal Fund any interest income earned on the federal share of collections from October 1, 1998. We strongly object to its retroactive application in violation of section 482(c) of the Higher Education Act.

In a letter, dated September 4, 2001, from John A. Reeves, General Manager, Financial Partners, U.S. Department of Education to Brett Lief, President, NCHELP, Mr. Reeves states that many guarantors believe that retroactive treatment of the Secretary's equitable share of post-default collections is unlawful. USA Funds takes such a position. The regulation that required the federal share of collections to be deposited into the

Federal Fund within 48 hours of collection, 34 C.F.R. § 682.419(b)(6), was not published until October 29, 1999, with an effective date of July 1, 2000. Mr. Reeves' letter acknowledges the issue of retroactive application of the regulation must be further reviewed for its legality.[5] Thus, USA Funds will not transfer any monies to the Federal Fund until the Department's review is completed. At that time, based upon the outcome of the review, USA Funds will further evaluate if any actions are warranted.

III. USA Funds is Owed Offsets Against Any Interest Due the Federal Fund

Notwithstanding our disagreement with the retroactive application of a new regulatory requirement, even if this 48 hour rule were deemed to be effective during this retroactive period, USA Funds can claim offsets against the Federal Fund for amounts that were in the Federal Fund, but should not have been. During the time period when USA Funds did not transfer the Secretary's equitable share of post-default collections to the Federal Fund within 48 hours of receipt, other offsetting monies were present in the Federal Fund that should have been transferred out of the Federal Fund. Thus, the Federal Fund benefited by earning interest on those monies not transferred, and this benefit should be considered in determining any adverse impact to the Federal Fund.

From October 1998 to June 2000, USA Group Guarantee Services, Inc. was purchasing claims from the lenders on behalf of USA Funds on a timely basis as stipulated by regulation. However, during the initial 7 months after implementation of the new funding model, beginning October 1, 1998, USA Funds' Federal Fund failed to reimburse USA Group Guarantee Services on a timely basis for some claim payments and the Default Aversion Fee was not timely transferred from the Federal Fund to the Agency Operating Fund. Using the same rate of interest as OIG, the Federal Fund earned potentially in excess of $3 million in interest that would offset the alleged adverse impact to the Federal Fund.

Response to Finding 2

USA Funds respectfully disagrees with Finding 2. Finding 2 arises from a contract for default aversion services between USA Funds and Student Assistance Corporation. Because Student Assistance Corporation does not hold, service, or perform collection activities on loans, USA Funds has complied with section 682.404(k)(4). The conclusion of Finding 2 that the various contractual relationships among USA Funds and separate corporate entities of Sallie Mae for the provision of default aversions services and post-default collections is a violation of 34 C.F.R. § 682.404(k)(4) is not supported by the history or plain language of the regulation.

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[5] The retroactive application of the regulation is also inconsistent with other actions taken by the Department. In the instructions to Forms 2000, the interest penalty for late reporting of collections was removed from the form effective July 1, 2000.

I. Regulatory Language and Contractual Background

Beginning with the text of the subject regulation, section 682.404(k)(4) states:

> Prohibition against conflicts. If a guaranty agency contracts with an outside entity to perform any default aversion activities, that outside entity may not:
> (i) hold or service the loan; or
> (ii) perform collection activities on the loan in the event of default within 3 years of the claim payment date.

USA Funds contracts with Student Assistance Corporation for default aversion services. Student Assistance Corporation is a subsidiary of USA Education, Inc. (generally referred to as "Sallie Mae"), and is an "outside entity" within the meaning of section 682.404(k)(4). Therefore, USA Funds does contract with an outside entity for default aversion services and section 682.404(k)(4) is applicable.

Corporate entities affiliated with Student Assistance Corporation do hold or service loans, or perform collections activities on loans for which Student Assistance Corporation provided default aversion activities on behalf of USA Funds. The Student Loan Marketing Association holds loans for which Student Assistance Corporation performs default aversion activities on behalf of USA Funds. Sallie Mae Servicing L.P. provides pre-default loan servicing on loans for which Student Assistance Corporation performs default aversion activities on behalf of USA Funds. Education Debt Services, Inc. provides post-default collection on loans for which Student Assistance Corporation performed default aversion activities on behalf of USA Funds. Student Assistance Corporation, the Student Loan Marketing Association, Sallie Mae Servicing L.P., and Education Debt Services, Inc.[6] are separate legal entities within the Sallie Mae family of companies and none of these companies controls another. (See attached corporate organization chart.)

II. Student Assistance Corporation, the Student Loan Marketing Association, Sallie Mae Servicing L.P., and Education Debt Services, Inc. are not the same "entity" as the term is used in 34 C.F.R. § 682.404(k)(4).

The question is whether Student Assistance Corporation, the Student Loan Marketing Association, Sallie Mae Servicing L.P., and Education Debt Services, Inc. are the same "entity" as the term is used in 34 C.F.R. § 682.404(k)(4). In other words, the issue is whether "entity" refers to a single corporation holding a default aversion contract with a guarantor, or instead to multiple, related companies sharing common ownership,

[6] Sallie Mae has recently acquired, or announced the acquisition thereof, of two collection agencies, General Revenue Corporation, and Pioneer Credit Recovery. It is expected that such entities may provide post-default collection services on loans for which Student Assistance Corporation provided default aversion services.

only one of which holds a default aversion contract with a guarantor. For at least three reasons, the conclusion must be that the term "entity," as used in section 682.404(k)(4), refers to a single corporation and not to multiple, related corporations. First, the predecessor regulation by its express terms regulated affiliates, whereas the current regulation is stripped of those terms. Second, the definition of "entity" is a single corporate entity, not a family of companies. Third, during negotiated rulemaking, the Department proposed regulatory language that included an affiliate proviso, but subsequently agreed to remove the affiliate proviso.

A. The Predecessor Regulation on Supplemental Preclaims Expressly Barred Corporate Affiliates From Holding or Servicing the Loan.

The plain meaning of "entity" in section 682.404(k)(4) is evident from the Department's use of specific, express language to include not only a corporation but also its subsidiaries and parent in the predecessor regulation governing supplemental pre-claims assistance.[7] In form and substance, the new section 682.404(k)(4) parallels the regulation of an "outside entity" carried out by the predecessor rule, section 682.404(a), except that the predecessor rule also set forth this proviso:

> If a guaranty agency contracts with an outside entity to perform any supplemental preclaims activity, that entity may not— * * *
> (B) **Own, control, or share common ownership with** the holder or servicer of the loan. (emphasis added).

The Department's use of an identical framework in subsection (k)(4) -- except for the omission of the affiliate proviso -- demonstrates that the Department intended "entity" in subsection (k)(4) to mean a corporation, not including its parent or co-subsidiary corporations. When the drafter knew how to specify a certain definition but did not, there is a presumption that the omission was intentional. *See* 2A Norman A. Singer, Sutherland Statutory Construction § 47.25 (6th ed. 2000). This presumption is even stronger when the omission is in the predecessor regulation. We note too that other FFELP regulations expressly mention both a corporation and its affiliates when the Department intends to regulate the overall enterprise of related corporations.

B. The Dictionary Definition of "Entity" is a Single Corporate Entity, Not the Family of Companies.

The dictionary definition of a word should control its meaning unless the regulation provides a specific, contrary definition. *Pittston Coal Group v. Sebben*, 488 U.S. 105, 113 (1988). "Entity" means an organization or being that possesses separate existence for tax purposes, including a corporation. Black's Law Dictionary 532 (6th ed. 1990). Because section 682.404(k)(4) does not provide a specific, contrary definition --

[7] The Higher Education Act Amendments of 1998 eliminated preclaims and supplemental preclaims assistance and replaced them with default aversion assistance. S. Rep. 105-181 at 9.

such that "entity" could mean multiple, related corporations -- the dictionary meaning of "entity" as including a single corporation, not multiple corporations, controls.

The context in which "entity" appears in the regulation -- that an entity "contracts [with a guaranty agency] . . . to perform any default aversion activities" -- also must be considered. The contractual context is consistent with the dictionary definition of "entity" because it defines the entity as the party to the default aversion contract. Only a single corporate entity is a party to the default aversion contract. It is hornbook law that "[t]he contract of a corporation is the contract of the legal entity . . . ." Fletcher's Cyclopedia Corp. § 29 (Perm Ed.) at 497. For section 682.404(k)(4) to apply to multiple, related corporations as a single "entity," one would be forced to assume that a guaranty agency's default aversion contract with one corporation legally obligates related corporations to perform that contract. There is no support for such a conclusion. "One corporation is not liable for the other's contracts merely because they have the same shareholders." *Id.* at 503. Certainly issuing a consolidated financial statement is insufficient to ignore the separate corporate identities of the subsidiaries that hold the contracts. So context too supports that "entity" does not include related corporations.[8]

<u>C. During Negotiated Rulemaking the Department Considered Including Corporate Affiliates Within the Regulation and Removed the Language.</u>

Even if the plain meaning were not unmistakably clear from the text of the regulation or its predecessor, the negotiation of section 682.404(k)(4) further demonstrates that the term "entity" refers to a single corporate entity. During negotiated rulemaking over section 682.404(k), Department negotiators proposed inclusion of the affiliate proviso included in the supplemental preclaims regulation being replaced, such that the prohibitions of section 682.404(k)(4) would extend to a corporation that holds or services the loan or that owns, controls, or shares common ownership with the holder or servicer of the loan. (See draft NPRM dated March 17, 1999.) This is precisely the affiliate proviso for supplemental preclaims. Specifically, the Department proposed that section 682.404(k)(4) state:

> <u>Prohibition against conflicts</u>. If a guaranty agency contracts with a third-party servicer to perform any default aversion activities, that third-party servicer may not:
>
> (A) Hold or service the loan;

[8] A Dear Guaranty Agency Partner Letter, dated November 15, 1999, is consistent with the concept that the "entity" is solely the entity that is obligated to provide default aversion services: "If a guaranty agency contracts with another party to perform default aversion assistance and collect defaulted loans, the **party that provides default aversion assistance on a loan** may not collect on that loan within 3 years of the date the claim is paid."

(B) **Own, control, or share common ownership with the holder or servicer of the loan**; or

(C) Perform collection services on the loan in the event of default.

In response to the proposal, the USA Group negotiator pointed out that the affiliate proviso would prohibit a default aversion contract between USA Group Guarantee Services and a guarantor other than USA Funds, owing to the likely ownership of loans by USA Group Secondary Market Services (a separate corporation from USA Group Guarantee Services, but nonetheless "sharing common ownership" within the meaning of the affiliate). The USA Group negotiator also pointed out that the affiliate proviso would prohibit the servicing of loans by USA Group Loan Services. The Department's negotiator expressly recognized these concerns. He advised that the Department's intention was not to prohibit these arrangements, and so the Department withdrew the affiliate proviso. This regulatory history answers any questions about the Department's intentions in declining to include section 682.404(a)'s affiliate proviso in the successor section 682.404(k)(4).

For all the above reasons, it is not a violation of section 682.404(k)(4) for corporate entities affiliated with Student Assistance Corporation to hold or service loans, or to perform collections activities on loans for which Student Assistance Corporation performed default aversion activities on behalf of USA Funds.

III. The Default Aversion Fee Structure Provides Incentives to Student Assistance Corporation to Maximize Default Aversion Success, Even if an Affiliate Performs Post-Default Collections.

The OIG acknowledges that USA Funds has demonstrated that its default aversion fee structure provides incentives to maximize default aversion success, even if an affiliate performs post-default collections. The fee structure is fully explained in the attached letter, dated July 24, 2000, from Carl C. Dalstrom, now President and Chief Executive Officer of USA Funds, to Greg Woods, the Chief Operating Officer for Federal Student Aid. Very briefly, Student Assistance Corporation receives greater fee revenue as its success in preventing defaults improves. Having not received a response from Mr. Woods, USA Funds must assume that he accepts that the fee structure provides sufficient financial incentive to maximize default aversion efforts, even if an affiliate is performing some default collection activities. Therefore, contrary to the conclusion of the OIG, the opinion of SFA (now FSA) appears to be that the potential for manipulations of default aversion and post-default collection activities is not meaningfully greater than it would be if a separate entity outside the Sallie Mae family of companies performed one of the two activities.

IV. The Interpretation of the OIG Would Abrogate Existing Relationships Within the FFELP Community.

The interpretation of section 682.404(k)(4) offered by OIG would likely affect other existing relationships in the FFELP community. While we have no knowledge of the specific contractual arrangements, it is USA Funds' understanding that the interpretation of section 682.404(k)(4) as set forth in Finding 2 would have far-reaching effects on existing contractual relationships in the FFELP community (e.g., CSAC/EdFund). Moreover, the subject regulation equally applies to holders and servicers of loans as it does to entities that provide post-default collection services. If Finding 2 is extended to apply to holders and servicers of loans, which are logically indistinguishable, even more existing contractual relationships within the FFELP community would be effected.

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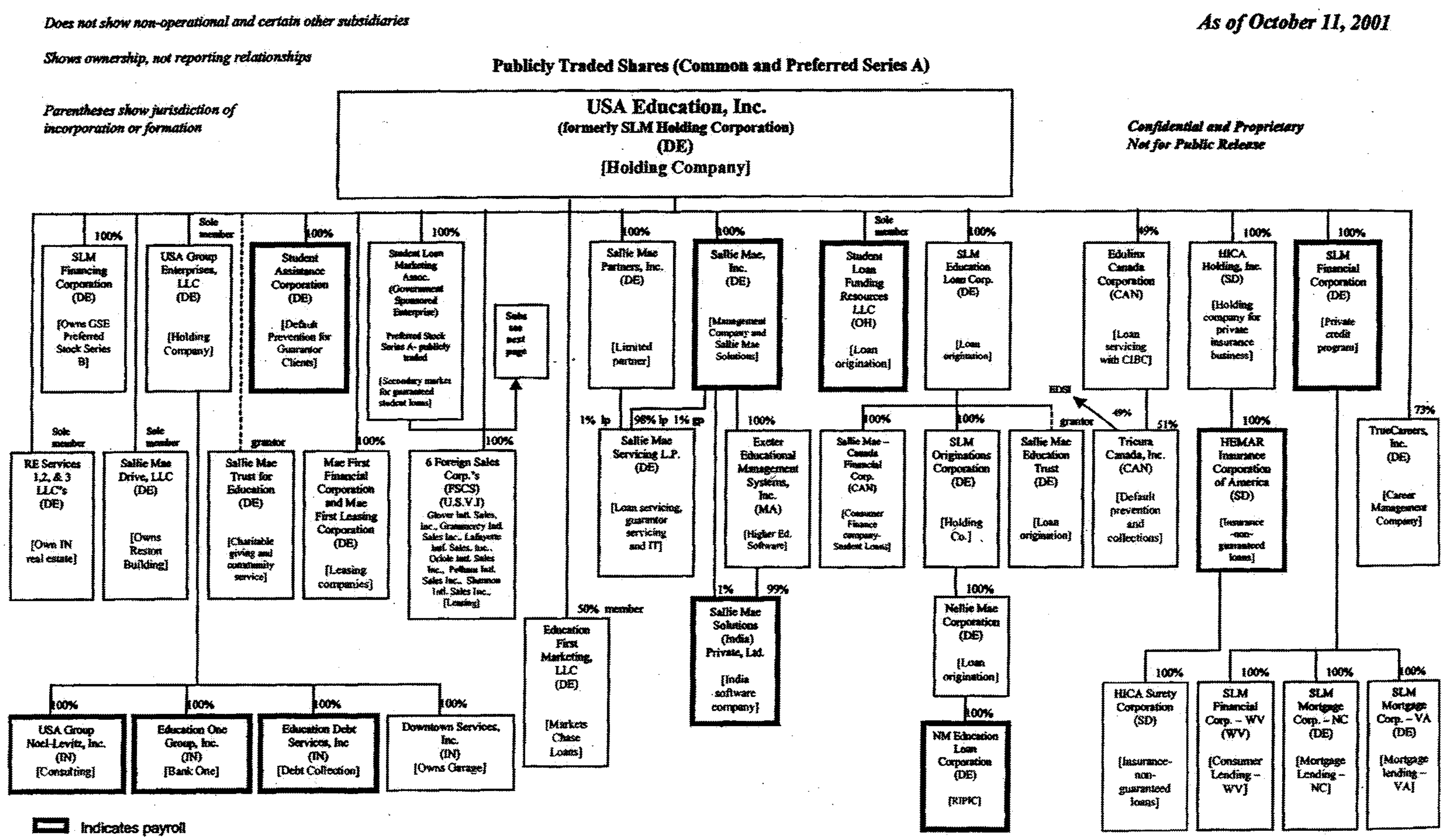

Does not show non-operational and certain other subsidiaries
Shows ownership, not reporting relationships
Parentheses show jurisdiction of incorporation or formation
As of October 11, 2001
Publicly Traded Shares (Common and Preferred Series A)
USA Education, Inc.
(formerly SLM Holding Corporation)
(DE)
[Holding Company]
Confidential and Proprietary
Not for Public Release
100%
SLM Financing Corporation (DE) [Owns GSE Preferred Stock Series B]
Sole member
USA Group Enterprises, LLC (DE) [Holding Company]
Student Assistance Corporation (DE) [Default Prevention for Guarantor Clients]
Student Loan Marketing Assoc. (Government Sponsored Enterprise)
Preferred Stock Series A- publicly traded
[Secondary market for guaranteed student loans]
Subs see next page
Sallie Mae Partners, Inc. (DE) [Limited partner]
Sallie Mae, Inc. (DE) [Management Company and Sallie Mae Solutions]
Student Loan Funding Resources LLC (OH) [Loan origination]
SLM Education Loan Corp. (DE) [Loan origination]
49%
Edulinx Canada Corporation (CAN) [Loan servicing with CIBC]
HICA Holding, Inc. (SD) [Holding company for private insurance business]
SLM Financial Corporation (DE) [Private credit program]
73%
TrueCareers, Inc. (DE) [Career Management Company]
RE Services 1,2, & 3 LLC's (DE) [Own IN real estate]
Sallie Mae Drive, LLC (DE) [Owns Reston Building]
grantor
Sallie Mae Trust for Education (DE) [Charitable giving and community service]
Mae First Financial Corporation and Mae First Leasing Corporation (DE) [Leasing companies]
6 Foreign Sales Corp.'s (FSCS) (U.S.V.I) [Leasing]
1% lp
98% lp
1% gp
Sallie Mae Servicing L.P. (DE) [Loan servicing, guarantor servicing and IT]
Exeter Educational Management Systems, Inc. (MA) [Higher Ed. Software]
Sallie Mae – Canada Financial Corp. (CAN) [Consumer Finance company- Student Loans]
SLM Originations Corporation (DE) [Holding Co.]
Sallie Mae Education Trust (DE) [Loan origination]
EDSI
Tricura Canada, Inc. (CAN) [Default prevention and collections]
51%
HEMAR Insurance Corporation of America (SD) [Insurance -non-guaranteed loans]
50% member
Education First Marketing, LLC (DE) [Markets Chase Loans]
1%
99%
Sallie Mae Solutions (India) Private, Ltd. [India software company]
Nellie Mae Corporation (DE) [Loan origination]
NM Education Loan Corporation (DE) [RIPIC]
HICA Surety Corporation (SD) [Insurance-non-guaranteed loans]
SLM Financial Corp. – WV (WV) [Consumer Lending – WV]
SLM Mortgage Corp. – NC (DE) [Mortgage Lending – NC]
SLM Mortgage Corp. – VA (DE) [Mortgage lending – VA]
USA Group Noel-Levitz, Inc. (IN) [Consulting]
Education One Group, Inc. (IN) [Bank One]
Education Debt Services, Inc (IN) [Debt Collection]
Downtown Services, Inc. (IN) [Owns Garage]
Indicates payroll

usaFunds™

Strategic solutions for education™

July 24, 2000

Carl C. Dalstrom
Executive Director

VIA FACSIMILE AND OVERNIGHT MAIL

Greg Woods
Chief Operating Officer
U.S. Department of Education
Student Financial Assistance
7th and D Streets, S.W.
ROB-3, Room 4004
Washington, D.C. 20202

Dear Greg:

As a follow-up to our recent meeting, and at your request, this letter explains the manner in which USA Funds will procure default aversion services from an entity within the new USA Education (the combined Sallie Mae/USA Group organization) structure. We also show why the planned procurement will support the Department's policy of aggressively preventing defaults.

By way of background, on October 1, 1999, USA Funds and USA Group Guarantee Services entered into an agreement for USA Group Guarantee Services to provide default aversion services for USA Funds. This agreement will be assigned, upon closing, to an entity under the USA Education umbrella. Such entity providing default aversion services will be a separate corporate entity from any USA Education entity that holds, services or performs default collection activities on FFELP loans.

The primary purposes of the agreement were to strengthen USA Funds' oversight role, and to update the fee structure to reflect the new guarantor funding model and provide more incentives for preventing defaults, maximizing collections, developing technological innovations, and satisfying customers. We believe that the incentive program for default aversions is particularly dramatic and creative.

An important goal of the default aversion fee structure is to provide the guarantor servicer, in this case a USA Education entity, sufficient financial incentive to maximize default aversion efforts on behalf of USA Funds, even if another entity within USA Education is performing default collection activities. As a result, USA Funds can be assured that its strong commitment to reducing defaults is shared by its guarantor servicer.

The default aversion entity will be paid a Default Aversion Processing (DAP) fee based on a percentage share of the statutory default aversion fee transferred to USA Funds' Operating Fund from its Federal Reserve Fund. This percentage of the default aversion fee is called the Default Aversion Incentive Factor (DAIF). The DAIF varies based on USA Funds' annual default trigger rate. The lower the default rate, the higher the DAIF and the higher the revenue to the servicer. The following table provides examples of the results of the formula at selected default rates:

Default Trigger Rate	DAIF
5.0%	70% (minimum)
3.0%	81%
2.0%	87%
0.5%	95% (maximum)

The relevant formula is:

DAIF = 0.70 + (5.56 times the percentage points that the current year default trigger rate is below 5%)

DAP = DAIF x statutory Default Aversion Fee received by USA Funds' Operating Fund

As an added incentive to prevent defaults, the default prevention servicing entity will pay a Default Aversion Rebate (DAR) fee back to USA Funds if the loan subsequently defaults. The DAR fee is calculated in an identical manner as the Default Aversion Processing fee. The DAR fee is based on USA Funds' prior year default rate and is a percentage (equivalent to the DAP DAIF) of USA Funds' default aversion refund to its Federal Reserve Fund.

In addition to building a financial incentive into the statutory default aversion fee, the contractual relationship with the USA Education organization providing portfolio management of defaulted loans includes an additional financial incentive for preventing defaults. The Default Portfolio Management (DPM) fee is based on a percentage share (called the Collections Incentive Factor or CIF) of USA Funds' net collection revenue. The net collection revenue is equal to the authorized guarantor retention less direct collection costs. As in default aversion, the CIF will vary based on USA Funds' default trigger rate. The lower the default trigger rate, the higher the CIF. The structure recognizes that as the default rate drops, the accounts that do go into default are harder to collect, and it provides an additional incentive to prevent defaults. The following are examples of the results of the formula at selected default rates:

Default Trigger Rate	**CIF**
5.0%	25% (minimum)
3.0%	47%
2.0%	58%
0.5%	75% (maximum)

The relevant formula is:

CIF = 0.25 + (11.11 times the percentage points the current year default trigger rate is below 5%)

DPM = CIF x net collection revenue

Linking both the DAP fee and portfolio management fee to preventing defaults provides a strong financial incentive for the individual default aversion servicer to prevent defaults and for the entire organization to be motivated to prevent defaults. We estimate that a half percentage point drop in the default trigger rate would generate significant additional annual gross revenue to USA Education, and would save the Federal government over $120 million.

The above discussion illustrates how the structure of the relationship between USA Funds and USA Education was set up to motivate USA Education to aggressively prevent defaults. It is also important to note that because the USA Education organization is a large holder of loans, it has an additional financial incentive to keep the loans out of default. This is because it avoids bearing the 2% share of the default risk and avoids the loss of future interest earnings. Therefore, factoring in its additional financial motivation as a holder, USA Education, as a whole, is even more motivated to prevent defaults.

It is my understanding that similar information to what I have provided above was requested by Linda Hall and Brian Siegel during a recent meeting with Dan Yost and David Boodt of USA Group and Sam Walker. I have copied Linda and Brian for that reason.

Please let me know if you have questions. I can be reached at (317) 951-5985.

Sincerely,

Carl

Carl C. Dalstrom

cc: Linda Hall
Brian Siegel, Esq.

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