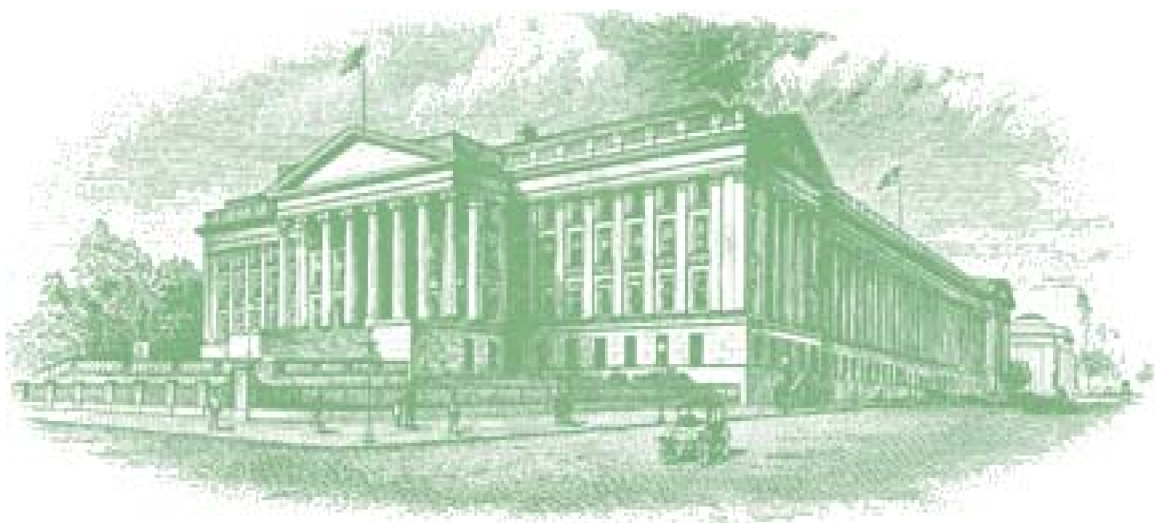
Audit Report



OIG-08-043

PRIVATE COLLECTION AGENCIES: Pioneer Credit Recovery, Inc., Needs to Improve Compliance with FMS's Debt Compromise Requirements

September 26, 2008

Office of Inspector General

Department of the Treasury

Contents

Abbreviations

DMS	Debt Management Services
FMS	Financial Management Service
OIG	Office of Inspector General
PCA	private collection agency
Pioneer	Pioneer Credit Recovery, Inc. (of Arcade, NY)
TOP	Treasury Offset Program
Treasury	Department of the Treasury

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Judith R. Tillman
Commissioner
Financial Management Service

We audited compliance by Pioneer Credit Recovery, Inc. (Pioneer), a private collection agency (PCA) under contract with the Financial Management Service (FMS), with requirements for debt compromise.[1] Our objective was to determine, for compromises on delinquent federal nontax debt, whether Pioneer is

1. following PCA contract requirements, including (a) attempting to collect the full amount due before considering a compromise and (b) compromising at authorized levels; and

2. documenting each compromise adequately, providing proper justification, and retaining evidence for the required period.

Our audit of Pioneer is part of a series of planned audits of PCAs and FMS's oversight of debt compromise. Appendix 1 contains a description of our objective, scope, and methodology.

In brief, we found that Pioneer was not following some PCA contract requirements and FMS policy, including documentation and justification provisions for debt compromise. We are making four recommendations to address these matters. In the management response, provided as Appendix 4, FMS concurred with these recommendations.

[1] A compromise plan is a payment agreement that allows the debtor to satisfy a debt by paying an amount less than the total balance due, typically in a single payment.

Background

As the federal government's financial manager, FMS implements the government's delinquent debt program, collecting an annual average of more than $3 billion in delinquent debt over the last 4 fiscal years through two main components, the Treasury Offset Program (TOP) and the Cross-Servicing Program.

TOP, a centralized offset program, enables the matching of delinquent debtor records referred by federal program agencies and states against files for federal payments, such as income tax refunds, federal employment salary payments, and Social Security benefit payments. When a match occurs, the payment is intercepted and offset up to the amount of the debt.

Cross-servicing is the centralized debt collection process for managing delinquent debts referred from federal program agencies through a variety of debt collection mechanisms, such as issuing demand letters, executing repayment agreements, referring accounts to TOP for administrative offset, referring debts to the PCAs, and reporting debts to credit bureaus.

The FMS Debt Management Services (DMS) provides federal agencies with debt collection and management services. DMS leads the development and implementation of governmentwide debt management policies. It accomplishes its mission of improving the quality of the federal government's financial management in part by increasing the collection of delinquent debt owed to the federal government and by providing debt management services to all federal agencies.

Once DMS determines that debtors cannot be located or are unwilling to resolve debts in an acceptable manner, the debts may be sent to the PCAs, which are private sector companies that specialize in collecting delinquent debt. The PCAs will attempt to find and contact debtors by searching various databases, making telephone calls, and sending collection letters. Once debtors are located and contacted, the PCAs will encourage them to satisfy their debts.

On March 12, 2007, DMS awarded a Treasury debt collection contract to Pioneer, to increase the recovery of, and to resolve, nontax federal debts.[2] The contract is a renewable 1-year contract with four 1-year options available. Pioneer also provided debt collection services under a prior contract with FMS.

For the 1-year period ending January 31, 2008, FMS referred $676 million to Pioneer, which collected $18.7 million and administratively resolved $74.9 million. The total amount forgiven for the 274 compromise agreements for which the forgiven amount was in excess of $2,000 processed by Pioneer during the 1-year period ending January 31, 2008, was $10.6 million.

Debt collection efforts are governed by various federal and state laws, including the Debt Collection Improvement Act of 1996 and the Federal Claims Collection Standards. Appendix 3 contains a brief summary of federal debt collection laws, regulations, and guidance. DMS's Private Collection Division monitors PCA activities.

Finding and Recommendations

FMS Should Ensure Pioneer's Enhanced Compliance With PCA Contract Requirements and Policy for Debt Compromise

Pioneer was not following some PCA contract requirements and FMS policy, including documentation and justification provisions for debt compromise, as discussed below. We provided a copy of our discussion draft report to Pioneer and have summarized its comments as we deemed appropriate.

Appendix 2 provides a summary of our results on a case-by-case basis for the 36 cases in our sample, randomly selected from a

[2] A debt may be administratively resolved for a variety of reasons. For example, collection efforts may be discontinued because of a debtor's death, disability, or bankruptcy or because a debtor entity has gone out of business. A debt may also be resolved if the debtor pays or otherwise satisfies the delinquent debt in full, pays the amount of a compromise reached, or enters into a repayment agreement under terms acceptable to the creditor agency.

universe of the 274 compromise agreements that had an active status during the audit period and had amounts forgiven greater than $2,000.

Inadequate Documentation of Steps in Collection Process

Before compromising a debt, the contract requires a PCA to take the following steps, in order: (1) attempt to collect the full amount in one payment, (2) attempt to collect the full amount in multiple payments, and (3) attempt to collect a partial payment amount in one or multiple payments.[3] The PCA is also required to include in its system a separate justification for being unable to collect in accordance with each applicable step. If the PCA is unsuccessful in these efforts, it may then attempt to negotiate a compromise payment amount with the debtor.

In all 36 of the debt compromise cases we reviewed, Pioneer did not document at least one of the first three steps listed above in accordance with contract requirements. For example, documentation was missing for step 3 (attempt to collect a partial payment) in 35 cases. Without documentary evidence of its efforts to establish partial payment agreements instead of compromise agreements, Pioneer has not ensured FMS that the $1.9 million in compromised debt for these debtors should have been forgiven. In addition, documentation was not adequate for step 1 (attempt to collect the full amount in one payment) in 1 case and for step 2 (attempt to collect the full amount in multiple payments) in 8 cases. Some cases had inadequate documentation for more than one step.

In responding to this finding, Pioneer provided a statement of what had been done on the account for each of the cases where we found that documentation was not adequate for steps 1 and 2. Our position continues to be that the debt collector's notes should include documentation in keeping with the contract requirements.

[3] In a partial payment agreement, the government suspends active collection while the debtor makes payments toward the balance due. Unlike a debt compromise, a partial payment agreement does not release the debtor's obligation to pay the full balance of the debt; the debt will remain in TOP so that the debtor's federal payments may be offset and applied to the debt balance.

Inadequate Documentation of Reasons for Compromise

The contract states that the PCA is to document in its system justifications for accepting, or recommending acceptance of, less than the full amount of the debt in one payment. In addition, the PCA must submit to DMS a request for approval of any compromise agreement not meeting the applicable standards, together with the justification and documentation required by the contract, including the reason for accepting a compromise. The applicable standards include agreement thresholds defined by the federal program agencies, such as the percentage of debt that may be compromised. Depending on the circumstances, concurrence for a compromise may be required from FMS, from the federal program agency, and/or from the Department of Justice.

Once a decision to proceed with a compromise was made, Pioneer did not document required justifications in its system in 2 cases. Pioneer also did not adequately explain in the concurrence documentation sent to FMS why the debt should be compromised for 8 of the 11 debts that required concurrence. This included 1 of the 2 cases mentioned above.

Pioneer indicated that additional training may be appropriate to address the issue of documentation and that its employees simply may not have remembered to include the justifications. Without proper documentation by a PCA, a reviewer would not be able to determine whether the PCA adhered to the requirements of the contract and acted in the best interests of the government.

In responding to this finding, Pioneer's position is that FMS approved the 8 cases and therefore adequate documentation was provided. We did not find adequate documentation in the files.

Missing Compromise Agreement Letters

The contract states that, after reaching an agreement with the debtor, the PCA is to send a DMS-approved compromise agreement letter to the debtor confirming the payment arrangement to which the debtor has agreed.

Files for 3 of the 36 Pioneer cases we examined lacked compromise agreement letters. There was no indication in the collector notes in Pioneer's system that letters had been sent to the debtors. Pioneer was not able to explain why copies of the letters were missing. In instances where letters were not sent, debtors would not have documentation confirming the payment arrangement and it would be difficult for a PCA to settle any dispute that might arise.

Missing 30-Day Notice on Compromise Agreement Letters

According to the contract, the PCA is to include in all accepted payment agreements the provisional notice that failure by the debtor to bring the account current within 30 calendar days from the payment due date will result in (1) the agreement becoming null and void and (2) the original amount of the debt being reinstated and due immediately, minus any payments and plus any accruals.

None of the 33 compromise agreement letters contained in the files of our sample cases included the required 30-day notice. When asked about this, Pioneer officials stated that DMS approved its compromise letters. DMS told us that prior to beginning collection work under the current contract all of the PCAs submitted collection letters to DMS for approval. DMS notified Pioneer that its letter was approved for use provided it changed the delinquency language to match the language in the contract. However, letters under both the prior and the current contract did not include this language. Failure to provide debtors with a 30-day notice is inconsistent with PCA contract requirements and could cause confusion and unfairness.

Recommendations

We recommend that FMS take action to ensure that Pioneer

1. conducts additional training or takes other corrective action to ensure that its employees properly document the steps taken prior to compromise,
2. documents properly its justification for all compromise agreements,

3. sends and retains copies of compromise agreement letters in each case where a compromise is reached, and
4. includes the 30-day provision in all compromise agreement letters.

Management Response

FMS concurred with our recommendations. The DMS Private Collection Division held a Debt Collection Forum for representatives of each of the five PCAs under the current contract, including Pioneer. Payment agreement standards and documentation requirements were a major focus. DMS plans to verify that each PCA has conducted additional training and may travel to PCA sites to train collection staff. DMS will request additional documentation from the PCAs where concurrence is required. As part of its annual compliance reviews, DMS will continue to ensure that compromise agreement letters were sent. Finally, Pioneer is now using a revised compromise agreement letter with the required 30-day provision.

OIG Comment

We believe that the actions taken or planned by FMS address the intent of the recommendations.

* * * * * * *

We appreciate the courtesies and cooperation provided to our staff. If you wish to discuss this report, you may contact me at (202) 927-6512 or Maria V. Carmona, Audit Manager, at (202) 927-6345.

Michael J. Maloney
Director, Fiscal Service Audits

Our audit objective was to determine if, for compromises on delinquent federal nontax debt, the private collection agencies (PCA) were

1. following PCA contract requirements, including (a) attempting to collect the full amount due before considering a compromise and (b) compromising at authorized levels; and

2. documenting each compromise adequately, providing proper justification, and retaining evidence for the required period.

We began our fieldwork for the overall audit in February 2008 and completed it in June 2008. Our work was performed at the Financial Management Service (FMS) offices in Washington, DC, and onsite at Pioneer Credit Recovery, Inc. (Pioneer).

This report provides the results of our review for Pioneer, one of the PCAs with which FMS has contracted for debt collection services. We plan to issue additional reports to address the results of our reviews of the other PCAs.

To accomplish our objective, we reviewed applicable laws and regulations. We also considered policy guidance given to the PCAs by FMS. This included both current and prior versions of PCA contract documents and FMS policy issuances, such as the Private Collection Agency Policy & Procedures Manual and technical bulletins.

We considered how FMS monitors PCA activity, reviewing the compliance checklists completed by FMS and supporting documentation obtained by FMS as it oversees the PCAs. We also reviewed the most recent compliance report for each of the PCAs under the prior contract.[4]

We interviewed FMS staff in the Debt Management Services Private Collection Division, including the contracting officer's technical representative for the PCAs. We also evaluated computer-generated data files on debt compromises from the FedDebt system, which is the current cross-servicing system. FedDebt is a

[4] FMS compliance reviews under the current contract began in May 2008. The final compliance review under the prior contract was completed in 2006, with no reviews done in 2007.

Web-based application used to create and update debt and debtor information and monitor financial transactions.

In addition, we audited a statistical sample of debt compromises under both the prior and current FMS contracts with Pioneer. The sample of 36 debt compromises was randomly generated from a universe of 274 compromise agreements negotiated by Pioneer. The 274 agreements all had an active status during the audit period and had amounts forgiven greater than $2,000.[5] These agreements were posted to the FedDebt system from February 2007 through January 2008, the most recent 1-year period available at the time that we requested the automated data. The following parameters were used to determine the size of the sample: 95 percent confidence level, 3.5 percent expected error rate, and ±3.5 percent sample precision.

We examined documentation for these debts to ensure that proper justification was in place to support each compromise agreement.

We conducted this performance audit 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 finding and conclusions based on our audit objectives.

[5] The amount forgiven included the outstanding principal, interest, administrative charges and penalties at the time each agreement became active, and potential PCA and DMS fees, as well as potential PCA bonus charges, less the amount to be paid by the debtor. Amounts forgiven less than or equal to $2,000 were considered immaterial for this audit.

				A			B		C	D
				Inadequate documentation			Inadequate documentation		Missing comp. letter (not in file)	Comp. letter missing 30-day notice [c]
Case Ref. [a]	Outstanding balance at date of compromise	Compromise amount	Amount forgiven	Step 1[b]	Step 2	Step 3	Justification in PCA system	Justification for concurrence		
A	22,821	3,000	19,821			X		X		X
B	17,455	4,015	13,440			X				X
C	6,546	4,189	2,357		X	X				X
D	9,115	4,990	4,125	X	X	X	X			X
E	17,000	10,000	7,000		X	X		X		X
F	492,428	100,000	392,428			X				X
G	141,794	10,000	131,794			X				X
H	25,256	10,426	14,830			X				X
I	103,424	40,100	63,324			X				X
J	10,465	5,500	4,965			X				X
K	8,161	4,900	3,261			X				X
L	18,543	9,000	9,543		X	X		X		X
M	32,448	13,683	18,765			X				X
N	202,186	3,000	199,186		X	X		X		X
O	12,494	10,000	2,494			X			X	
P	153,324	76,665	76,659			X		X		X
Q	10,369	5,200	5,169			X				X
R	49,149	15,000	34,149		X	X	X	X		X
S	11,531	5,754	5,777		X					X
T	766,047	5,000	761,047		X	X		X		X
U	11,052	7,604	3,448			X				X
V	21,713	13,513	8,200			X				X
W	10,384	5,192	5,192			X				X
X	8,111	6,090	2,021			X				X
Y	14,080	10,000	4,080			X		X		X
Z	15,590	7,796	7,794			X			X	
AA	62,087	20,000	42,087			X				X
BB	27,934	14,000	13,934			X				X
CC	11,073	9,000	2,073			X				X
DD	6,008	3,200	2,808			X			X	
EE	31,035	15,000	16,035			X				X
FF	11,319	7,900	3,419			X				X
GG	12,632	9,335	3,297			X				X
HH	11,504	8,850	2,654			X				X
II	9,206	7,143	2,063			X				X
JJ	6,214	3,186	3,028			X				X
Totals	**$2,380,498**	**$488,231**	**$1,892,267**	**1**	**8**	**35**	**2**	**8**	**3**	**33**

Notes: See corresponding letters on the following page.

Notes:

a. Cases A-T were under the prior contract; cases U-JJ under the current contract.

b. Before compromising a debt, the contract requires a PCA to take the following three steps, in order:

   Step 1. Attempt to collect the full amount in one payment.

   Step 2. Attempt to collect the full amount in multiple payments.

   Step 3. Attempt to collect a partial payment amount in one or multiple payments.

c. The three cases where a compromise letter was not in file, shown in Column C, were not considered in Column D.

The following are brief statements of the purpose of selected federal debt collection laws, regulations, and guidance:

Debt Collection Improvement Act of 1996

To centralize the governmentwide collection of delinquent debt and give Treasury significant new responsibilities in this area and to require that agencies take prompt action to recover debts and transfer all nontax debts delinquent more than 180 days to Treasury for administrative offset and cross-servicing.

Fair Debt Collection Practices Act

To eliminate abusive debt collection practices by debt collectors, to ensure that debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent state action to protect consumers against debt collection abuses.

Federal Claims Collection Act and Standards

To set administrative procedures with respect to collection of debts owed to the United States, including the criteria for accepting installment payments and compromise agreements.

Privacy Act

To restrict the disclosure of personal information about individuals and govern the handling of such information by the federal government and its contractors.

OMB Circular A-129–Policies for Federal Credit Programs and Nontax Receivables

To prescribe policies and procedures for justifying, designing, and managing federal credit programs and for collecting nontax receivables.

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
WASHINGTON, D.C. 20227

COMMISSIONER

September 18, 2008

Mr. Michael J. Maloney
Director, Fiscal Service Audits
Office of the Inspector General
740 15th Street, NW
Suite 600
Washington, DC 20220

Dear Mr. Maloney:

Thank you for the opportunity to comment on the September 2008 draft audit report titled "*PRIVATE COLLECTION AGENCIES: Pioneer Credit Recovery, Inc. Needs to Improve Compliance with FMS's Debt Compromise Requirements* (A-FI-08-031)." We acknowledge that with any successful program, there are still opportunities for improvement. I agree with the recommendations presented in this draft report, and offer the following actions that Financial Management Service (FMS) will take:

1. FMS should take action to ensure that Pioneer conducts additional training or takes other corrective action to ensure that its employees properly document the steps taken prior to compromise.

Debt Management Services has been focusing on increasing the Private Collection Agencies' (PCA) compliance with this requirement. On September 16-17, 2008, the Private Collection Division (PCD) hosted a Debt Collection Forum for representatives of each of the 5 PCAs under the current contract. A major area of focus was on the payment agreement standards and the requirement to document each step in the negotiation process before proceeding to the next. PCD staff discussed the requirements of the PCA contract and Operations and Procedures Manual in detail, as well as reminded attendees of the requirements outlined in federal regulations, particularly the Federal Claims Collection Standards. During compliance reviews, PCD will verify each PCA conducted additional training based on the Debt Collection Forum discussions. PCD is also considering traveling to each of the current contractors' sites and training the collection staff directly.

2. FMS should take action to ensure that Pioneer documents properly its justification for all compromise agreements.

As stated in the previous response, PCD focused primarily on payment agreement standards and documentation requirements at the Debt Collection Forum this month, and may train collection staff directly.

Page 2 – Mr. Michael J. Maloney

PCD staff also reviews compromise agreement justifications as part of each PCA's annual compliance review. When there is a finding, the PCA is required to provide a written response to FMS. PCD will continue to review Pioneer's justification documentation on subsequent reviews.

FMS did approve for compromise the eight cases where the OIG states inadequate documentation of reason for compromise was provided. PCD will request additional documentation from the PCAs where concurrence is required.

3. FMS should take action to ensure that Pioneer sends and retains copies of compromise agreement letters in each case where a compromise is reached.

As part of each PCA's annual compliance review, PCD reviews compromise agreements to ensure that a letter detailing the terms of the agreement was sent to the debtor. In cases where there is a finding, the PCA is required to respond to FMS in writing. PCD will continue to review each PCA's files to ensure compromise agreement letters were sent.

4. FMS should take action to ensure that Pioneer includes the 30-day provision in all compromise agreement letters.

PCD contacted Pioneer about the situation. Pioneer has since made the required change to their compromise agreement letter, and has begun using the revised letter.

Thank you for the opportunity to comment on this draft OIG report. If you have any questions or wish to discuss these comments in more detail, I can be reached on (202) 874-7000, or you can contact Rita Bratcher on (202) 874-3810 or Dave Lebryk on (202) 874-7000.

Sincerely,

JRT

Judith R. Tillman

Michael J. Maloney, Director, Fiscal Service Audits
Maria V. Carmona, Audit Manager
Kenneth G. Dion, Audit Manager
Horace A. Bryan, Auditor
Gerald H. Kelly, Auditor
Myung G. Han, Management Analyst
Jenny Hu, Referencer
Gerald J. Steere, Referencer

Department of the Treasury

Office of Strategic Planning and Performance Management
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Financial Management Service

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Director, Finance and Internal Control Division
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OIG Budget Examiner