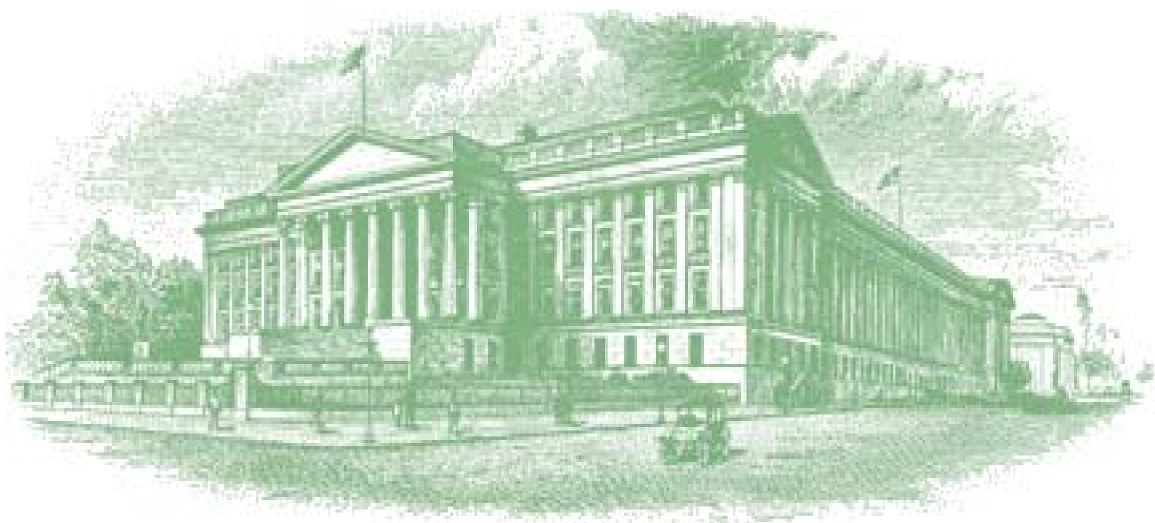
Audit Report



OIG-08-044

PRIVATE COLLECTION AGENCIES: Linebarger, Goggan, Blair & Sampson, LLP, 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
Linebarger	Linebarger, Goggan, Blair & Sampson, LLP (of Houston, TX)
OIG	Office of Inspector General
PCA	private collection agency
TOP	Treasury Offset Program
Treasury	Department of the Treasury

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Judith R. Tillman
Commissioner
Financial Management Service

We audited compliance by Linebarger, Goggan, Blair & Sampson, LLP (Linebarger),[1] a private collection agency (PCA) under contract with the Financial Management Service (FMS), with requirements for debt compromise.[2] Our objective was to determine, for compromises on delinquent federal nontax debt, whether Linebarger 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 Linebarger 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 Linebarger was not following some PCA contract requirements and FMS policy, including documentation provisions for debt compromise. We are making two recommendations to address these matters. In the management response, provided as Appendix 4, FMS concurred with these recommendations.

[1] This firm was formerly Linebarger, Heard, Goggan, Blair, Graham & Sampson, LLP.
[2] 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 Linebarger, to increase the recovery of, and to resolve, nontax federal debts.[3] The contract is a renewable 1-year contract with four 1-year options available. Linebarger also provided debt collection services under a prior contract with FMS.

For the 1-year period ending January 31, 2008, FMS referred $696 million to Linebarger, which collected $16.7 million and administratively resolved $106 million. The total amount forgiven for the 132 compromise agreements for which the forgiven amount was in excess of $2,000 processed by Linebarger during the 1-year period ending January 31, 2008, was $4.8 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 Linebarger's Enhanced Compliance With PCA Contract Requirements and Policy for Debt Compromise

Linebarger was not following some PCA contract requirements and FMS policy, including documentation provisions for debt compromise, as discussed below. We provided a copy of portions of our discussion draft to Linebarger, which responded that it has taken steps to address the findings.

Appendix 2 provides a summary of our results on a case-by-case basis for the 17 cases in our sample, randomly selected from a

[3] 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 132 compromise agreements that had an active status during the audit period and had amounts forgiven greater than $2,000. It should be noted that, for the reason stated in note e of appendix 2, we considered 16 cases in reporting our results below regarding inadequate documentation.

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.[4] 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.

None of the 16 cases in our sample had documentation for step 3 (attempt to collect a partial payment). Without documentary evidence of its efforts to establish partial payment agreements instead of compromise agreements, Linebarger has not ensured FMS that $333,000 in compromised debt should have been forgiven.[5] In addition, documentation was not adequate for step 2 (attempt to collect the full amount in multiple payments) in 11 cases.

Linebarger officials stated that the collectors were not clearly documenting the steps because the collectors were summarizing their discussions at the end of the negotiation process, instead of documenting them during the process. 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.

[4] 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.
[5] See appendix 2 for an explanation of this amount.

In responding to this finding, Linebarger indicated that it has initiated and installed additional processes for setting up and documenting payment plans, including compromises, in its collection system. The specific notes that are written to the collection system are reflected in updated system documentation.

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 17 compromise agreement letters contained in the files of our sample cases included the required 30-day notice. When asked about this, Linebarger officials stated that DMS approved its compromise letters. Linebarger also said that the compromise agreement letters state that the payment is delinquent and the compromise offer is withdrawn if payment is not made by the due date. As a result, the 30-day grace period is not offered. DMS told us that it had determined that Linebarger had the required language in its compromise agreement letters for payment in installments, but not for 1-time payments. This was an oversight on the part of DMS, which it has asked Linebarger to address as soon as possible.

We found that letters under both the prior and the current contract did not include the required language. Failure to provide debtors with a 30-day notice is inconsistent with PCA contract requirements and could cause confusion and unfairness.

In responding to this finding, Linebarger noted that it has added the 30-day notice provision to the compromise agreement letter and submitted it to the Contracting Officer's Technical Representative for approval.

Recommendations

We recommend that FMS take action to ensure that Linebarger

1. conducts additional training or takes other corrective action to ensure that its employees properly document the steps taken prior to compromise, and
2. 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 Linebarger. 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. In addition, Linebarger 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.

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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

This report provides the results of our review for Linebarger, Goggan, Blair & Sampson, LLP (Linebarger), 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.

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. This included reviewing Linebarger records that were sent to FMS.

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.[6]

We interviewed FMS staff in the Debt Management Services Private Collection Division, including the contracting officer's technical representative for the PCAs.

[6] 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.

We also evaluated computer-generated data files on debt compromises from the FedDebt system, which is the current cross-servicing system. FedDebt is a 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 Linebarger. The sample of 17 debt compromises was randomly generated from a universe of 132 compromise agreements negotiated by Linebarger. The 132 agreements all had an active status during the audit period and had amounts forgiven greater than $2,000.[7] It should be noted that, for the reasons explained in note d of appendix 2, we considered 16 cases in reporting our results regarding inadequate documentation.

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.

[7] 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
Ref. [a]	Outstanding balance at date of compromise	Compromise amount	Amount forgiven	Inadequate documentation			Comp. letter missing 30-day notice
				Step 1 [b]	Step 2	Step 3	
A	17,103	10,200	6,903		X	X	X
B	23,159	7,000	16,159		X	X	X
C	91,827	53,322	38,505		X	X	X
D	19,162	9,538	9,624		X	X	X
E	23,583	15,000	8,583		X	X	X
F	85,262	38,383	46,879			X	X
G	23,765	17,314	6,451		X	X	X
H	90,342	7,058	83,284		X	X	X
I[c]	52,064	25,077	26,987			X	X
J	6,690	3,983	2,707		X	X	X
K	8,527	6,463	2,064		X	X	X
L	23,170	18,102	5,068			X	X
M	11,055	6,000	5,055			X	X
N[d]	7,713	5,500	2,213				X
O	88,444	36,000	52,444		X	X	X
P	31,027	20,784	10,243			X	X
Q	66,779	27,389	39,390		X	X	X
Total	**$669,672**	**$307,113**	**$362,559**		**11**	**16**	**17**
Less I, N			**- 29,200**				
Amt. Used[e]			**$333,359**				

Notes:

a. Cases A- L were under the prior contract; cases M- Q 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. Case I, which initially was a part of our sample of compromise agreements, was manually terminated. A new agreement was reached for payment of the full balance. Because another type of payment agreement was reached, we are not considering this case in the computation of amount forgiven.

d. Settlement on Case N was negotiated by the federal program agency. Linebarger was subsequently instructed by FMS on how to proceed in this matter and, consequently, was not afforded the opportunity to collect the full amount. For this reason, we are not considering this case with reference to the adequacy of documentation (column A in the table), or for the computation of amount forgiven.

e. The amount used in our discussion in the body of the report of inadequate documentation does not include the forgiven amounts for Cases I and N, for the reasons discussed in notes c and d above.

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: Linebarger, Goggan, Blair, and Sampson, LLP, 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 Linebarger conducts additional training or takes other corrective action to ensure that its employees properly perform and 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 Linebarger includes the 30-day provision in all compromise agreement letters.

PCD contacted Linebarger about the situation. Linebarger submitted a revised compromise agreement letter to the PCA contract COTR for approval. FMS approved the letter, and Linebarger has begun using the revised letter.

Page 2 - Mr. Michael J. Maloney

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
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Department of the Treasury

Office of Strategic Planning and Performance Management
Office of Accounting and Internal Control

Financial Management Service

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Director, Finance and Internal Control Division
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Office of Management and Budget

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