§ 1087f. Contracts

(a) Contracts for supplies and services

(1) In general

The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b) of this section. In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

(2) Entities

The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 1078 (b) and (c) of this title, if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part, give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

(3) Rule of construction

Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

(4) Servicing by eligible not-for-profit servicers

(A) Servicing contracts

(i) In general

The Secretary shall contract with each eligible not-for-profit servicer to service loans originated under this part, if the servicer—

(I) meets the standards for servicing Federal assets that apply to contracts awarded pursuant to paragraph (1); and

(II) has the capacity to service the applicable loan volume allocation described in subparagraph (B).

(ii) Competitive market rate determination for first 100,000 borrower accounts

The Secretary shall establish a separate pricing tier for each of the first 100,000 borrower loan accounts at a competitive market rate.

(iii) Ineligibility

An eligible not-for-profit servicer shall no longer be eligible for a contract under this paragraph after July 1, 2014, if—

(I) the servicer has not been awarded such a contract before that date; or

(II) the servicer’s contract was terminated, and the servicer had not reapplied for, and been awarded, a contract under this paragraph.

(B) Allocations
(i) In general

The Secretary shall (except as provided in clause (ii)) allocate to an eligible not-for-profit servicer, subject to the contract of such servicer described in subparagraph (A), the servicing rights for the loan accounts of 100,000 borrowers (including borrowers who borrowed loans in a prior year that were serviced by the servicer).

(ii) Servicer allocation

The Secretary may reallocate, increase, reduce, or terminate an eligible not-for-profit servicer’s allocation of servicing rights under clause (i) based on the performance of such servicer, on the same terms as loan allocations provided by contracts awarded pursuant to paragraph (1).

(b) Contracts for origination, servicing, and data systems

The Secretary may enter into contracts for—

(1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 1087d (b) of this title;
(2) the servicing and collection of loans made or purchased under this part;
(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made or purchased under this part; and
(4) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

(c) Definition of eligible not-for-profit servicer

In this section:

(1) In general

The term “eligible not-for-profit servicer” means an entity—

(A) that is not owned or controlled in whole or in part by—
   (i) a for-profit entity; or
   (ii) a nonprofit entity having its principal place of business in another State; and

(B) that—
   (i) as of July 1, 2009—
      (I) meets the definition of an eligible not-for-profit holder under section 1085 (p) of this title, except that such term does not include eligible lenders described in paragraph (1)(D) of such section; and
      (II) was performing, or had entered into a contract with a third party servicer (as such term is defined in section 1088 (c) of this title) who was performing, student loan servicing functions for loans made under part B of this subchapter;
   (ii) notwithstanding clause (i), as of July 1, 2009—
      (I) is the sole beneficial owner of a loan for which the special allowance rate is calculated under section 1087–1 (b)(2)(I)(vi)(II) of this title because the loan is held by an eligible lender trustee that is an eligible not-for-profit holder as defined under section 1085 (p)(1)(D) of this title; and
      (II) was performing, or had entered into a contract with a third party servicer (as such term is defined in section 1088 (c) of this title) who was performing, student loan servicing functions for loans made under part B of this subchapter; or
   (iii) is an affiliated entity of an eligible not-for-profit servicer described in clause (i) or (ii) that—
(I) directly employs, or will directly employ (on or before the date the entity begins servicing loans under a contract awarded by the Secretary pursuant to subsection (a)(3)(A)), and the majority of individuals who perform borrower-specific student loan servicing functions; and

(II) as of July 1, 2009, was performing, or had entered into a contract with a third party servicer (as such term is defined in section 1088 (c) of this title) who was performing, student loan servicing functions for loans made under part B of this subchapter.

(2) Affiliated entity

For the purposes of paragraph (1), the term “affiliated entity”—

(A) means an entity contracted to perform services for an eligible not-for-profit servicer that—

(i) is a nonprofit entity or is wholly owned by a nonprofit entity; and

(ii) is not owned or controlled, in whole or in part, by—

(I) a for-profit entity; or

(II) an entity having its principal place of business in another State; and

(B) may include an affiliated entity that is established by an eligible not-for-profit servicer after March 30, 2010, if such affiliated entity is otherwise described in paragraph (1)(B)(iii)(I) and subparagraph (A) of this paragraph.

Footnotes

1 So in original. Probably should be “subsection (a)(4)(A)).”.


Amendments


Subsec. (b)(4), (5). Pub. L. 105–244, § 453(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “services to assist in the orderly transition from the loan programs under part B of this subchapter to the direct student loan program under this part; and”.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to contracts for former provisions relating to terms and conditions.

Effective Date of 1998 Amendment


Effective Date

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.