PURPOSE: This policy provides standards for the proper use of letters and mailings as tools for collection of accounts receivable. In addition, the policy emphasizes the importance of providing proper notification of a debt in order to meet the legal requirements of due process and of following through with further collection actions as stated in collection letters.

AUTHORITY: ORS 291.015
ORS 293.240
ORS 293.250
ORS 293.590
ORS 646.639

APPLICABILITY: This policy applies to all state agencies included in the State’s annual financial statements, except for those agencies specifically exempted by OAM 01.05.00.

POLICY:

101. Agency management must ensure that agency personnel employ appropriate and lawful practices in the collection of accounts receivable.

102. State agencies must comply with the Oregon Unlawful Debt Collection Practices statute, ORS 646.639, related to consumer debt. Agency staff undertaking letter collections must read, understand, and comply with the provisions of ORS 646.639.

103. State employees who collect debt during the performance of their official duties are specifically exempt from coverage under the Federal Debt Collections Practices law (15 U.S.C. §§1692a (6)(C)). This law does not bind state employees whose specific job entails collecting debt; however, the State of Oregon sees the value of the Federal Debt Collections Practices law and recommends that all agencies voluntarily comply. Many provisions of the state and federal laws overlap.

104. State agencies are required to make letter contact an integral part of their collection effort.
PROCEDURES:

Using Letters in the Collection Process

105. The letter is a cost effective measure for soliciting payment and an essential component for providing proper notification to the debtor before an agency begins more stringent action.

106. Notification is a paramount component to meeting legal due process requirements. Each agency’s mailing practices should address proper notification, including the use of certified mailings and the handling of returned mail. Letters serve to document the contact and place the debtor on notice. The letter may also serve as a gentle reminder of an obligation that the debtor may have simply forgotten.

107. Agencies should check records and unprocessed receipts before contact to avoid contacting a debtor who has already made payment. The use of electronic payment methods, such as automated clearinghouse (ACH) transfers, eliminates the possibility of unrecorded payments. Agencies must keep a copy or record of letters sent to debtors in the debtor’s file. Agencies must maintain a file on each past due account, including documentation of all correspondence and all telephone contacts or meetings.

108. In making the demand for payment, it is important to be aware of any provisions of the debt documents that specify a length of time for the debtor to make payments. For example, many contracts require 30 days written notice before considering the contract terminated or the debtor in default. In this case, the date indicated for payment in a collection letter may not be earlier than the period set forth in the contract.

109. Follow through on the demand for payment. If the time set forth in the collection letter expires without a response from the debtor, or if the debtor has not made payment, proceed with the action promised. Any delays in collection actions may make the debt more difficult to collect. Establish a system to ensure the agency will review the matter if the agency does not receive a response by the date specified.

110. If the account holder has moved and left no forwarding address, or if the address provided proves to be inaccurate, see OAM 35.30.70 for information on skip tracing. It is important to follow up on all returned mail promptly.

Collection Letter Content

111. Collection letters should be as simple and concise as possible while still communicating the required information. The debtor will be more inclined to read a short letter.

112. When developing collection letters, it is important to use a business letter format and to compose the content using professional language that the reader will easily understand. All letters must be on agency letterhead and need to include the full name and address of the debtor. Salutations should be businesslike in nature such as Dear Mr. Jones or Dear Ms. Smith, rather than informal such as Dear Joe.

113. An agency must send a collection letter before they may take any legal action to collect the debt. The collection letter needs to contain the following elements, depending on the level of progressive action (refer to OAM 35.30.30 for notification requirements to classify a debt as liquidated):
a. The name, address, and phone number of the state agency making the demand for payment
b. The amount owed by the debtor, including principal, interest, and penalties, if any
c. A request for action (payment)
d. The pertinent facts leading to the existence of the obligation
e. The date payment is due and the address to send the payment to
f. A statement explaining what will happen if the debtor does not make payment by the date set forth in the letter
g. An encouragement for the debtor to take action (i.e., continue as a customer, preserve credit rating, avoid penalty and interest charges, avoid withholding of services, etc.)
h. Information on how the debtor may correct any errors, and the existence and application of any appeal rights that the debtor may have

114. The collector must know their agency’s guidelines concerning debt collections, since the agency’s guidelines may be more stringent than Oregon Accounting Manual guidelines.

115. The severity in tone of the letter should increase the longer an account remains outstanding. The tone and style of the letter can also vary depending on the type of account and the debtor’s relationship with the agency. Due to legal considerations, avoid humor or threats. It is important to know the options that the agency may pursue if a debtor does not make a payment. When the collector suggests refusal of future service or reporting the account to a credit bureau, he should do so in a positive manner. For example, the collector may ask the debtor to keep the account current so the collector may continue to offer full services, or the collector may remind the debtor that immediate payment will avoid jeopardizing the debtor’s credit record.

Adding the Cost of Collection to the Debt; Debtor Notification

116. **ORS 293.231 (12)** authorizes state agencies to add the cost of collection to the debt when using a private collection firm, as long as proper notification has been given to the debtor:

   a. Of the existence of the debt;
   b. That the debt may be assigned to a private collection firm for collection; and
   c. Of the amount of the fee that may be added to the debt under ORS 293.231.

117. The Department of Justice has provided the following language to be incorporated into agency collection letters when state agencies add the cost of collection under ORS 293.231 (12):

   “As of {Date}, you owe [state creditor-agency] the sum of $ ___________ (principal amount plus interest accrued to date) for ___________ [describe the nature of the debt, fine, restitution, judgment, or other liability, etc.]. The amount you owe will increase [over time/monthly/other period to be recomputed] as interest accrues at a rate of {Interest Rate} on the unpaid principal amount.

   Under **ORS 293.231**, [state creditor-agency] must refer your account to the Oregon Department of Revenue or a private collection firm for collection if it has received no payment on the account for more than [prescribed statutory period]. If the [state creditor-agency] does not receive a payment from you by [date], then the [state creditor-agency]
will assign your account to collection. At that time, you also will become responsible for the payment of an additional collection fee of (*or up to) (**Collection Rate) percent of the amount you owe. This additional percentage will apply to any increase in the amount you owe due to the accrual of interest on the unpaid principal amount.”

*Notices using the “up to” terminology should only be used when absolutely necessary, and only to cover the highest contractor collection fee possible in the case of a creditor-agency that has multiple collection contractors.

** Collection Rate: When at all possible, a specific collection fee percentage should be stated using the formula “rate/(1-rate)”. (Rate= Private Collection Firm contracted collection fee.)

Examples of Collection Letters

118. The following examples provide language for the body of the collection letter. Combine this information with the required elements identified in paragraph 111 through 115.

First Past Due Letter. For accounts less than 30 days past due, a friendly reminder tone is appropriate. Following are two examples of letters that may be used (only content is illustrated):

a. Example 1: A formal letter, suitable for correspondence with a large company

Our records indicate that your account is now past due in the amount of $_________ for invoice No._________ which was due on <month><day>, <year>. (The letter could also show multiple invoices less previous payments made with a net amount owed and a date of the last payment, if any.) The invoice is for (state the service or reason for the invoice, such as license renewal request on December 15, 2012).

Please send your payment today. If you have questions regarding your account, you may contact us at ____-_______ between the hours of ____a.m. and ____p.m.

b. Example 2: A letter that is less formal than Example 1, but still businesslike in tone

This is a friendly reminder that is usually effective for an individual.

RE: Invoice No. _____________ Amount due $___________

We have not received payment on your account for (state the service or reason for the invoice, such as license renewal request on December 15, 2012). Have we overlooked it? If you have made a payment, please contact us with information regarding when, to whom, for what amount, and whether the check has cleared.

If you have not made a payment, please make your payment today. If you have questions or concerns, you may contact us at _____-_________ between the hours of _____a.m. and _____p.m.
119. Second Past Due Letter: For accounts between 30 and 60 days past due, use a letter with slightly stronger tone. In addition, this letter must address the subjects of hearing/dispute rights and deadlines to meet the definition of liquidated (OAM 35.30.30). Following are two examples of letters that may be used (only content is illustrated):

   a. Example 1

   RE: Invoice No: ______ Invoice Date: _______ Amount due $ ______

   We are concerned about your failure to reply to our previous notice dated {date of first letter} concerning your account which is past due in the amount of {amount due}. Our records currently reflect that (no payment has been made on your account or the last payment made on your account was in the amount of $________ on _________).

   If you dispute the balance, {insert agency dispute resolution policy}. If we do not hear from you by {dispute deadline}, we will consider the debt liquidated and proceed with collection actions as required by ORS 293.231.

   If you would like to discuss possible payment arrangements or if you have a question or concern, you may contact us immediately at _____-______ between the hours of _____a.m. and _____p.m.

   Please send your payment promptly to avoid further collection actions.

   b. Example 2

   RE: Invoice No: _______ Invoice Date: _______ Amount due $_______

   Our records indicate your account still has an outstanding balance. We have not received a response on previous attempts to call your attention to this matter.

   Your payment must be received by <month><day>, <year> in order for our agency to continue providing you service.

   If you dispute the balance, {insert agency dispute resolution policy}. If we do not hear from you by {dispute deadline}, we will consider the debt liquidated and proceed with collection actions as required by ORS 293.231.

   If you would like to discuss possible payment arrangements or if you have questions regarding this account, you may contact me at _____-_______ between _____a.m. and _____p.m.

   Please send your payment promptly to avoid further collection actions.

120. Third Past Due Letter: For accounts over 60 days past due that have not responded to the two previous reminders, an even stronger tone is required. A reason to take action becomes very important; however, do not make statements about what the agency will do unless the agency intends to carry them out. For example, if the letter indicates the agency will forward the account to a collection firm if the agency does not receive payment by a certain date, the agency must take this action by the date expressed in the letter. Below are three examples of letters that may be used (only content is illustrated):
a. **Example 1**

Since we have not received your response to our first two letters dated {letter dates}, we are now considering your account liquidated according to ORS 293.231.

{State Agency Name} must receive payment in full of your past due account by <month><day>, <year> to prevent us from forwarding your account to collection without further notification to you.

{Insert language from paragraph 117 if your agency adds the cost of collection according to ORS 293.231 (12) when using a private collection firm}

You may contact me at _____-_______ between _____a.m. and _____p.m.

b. **Example 2**

Your account is now _____ days past due. Since we have not received your response to our first two letters dated {letter dates}, we are now considering your account liquidated according to ORS 293.231. {State agency name} is now authorized under {agency statute or ORS 82.010} to charge interest of {interest rate} and penalties of {amount and statute}.

{State Agency Name} must receive payment in full of your past due account by <month><day>, <year> to prevent us from forwarding your account to collection without further notification to you.

{Insert language from paragraph 117 if your agency adds the cost of collection according to ORS 293.231 (12) when using a private collection firm}

You may contact me at _____-_______ between _____a.m. and _____p.m.

c. **Example 3**

Our records indicate that your account is seriously past due. Since we have not received your response to our first two letters dated {letter dates}, we are now considering your account liquidated according to ORS 293.231. {State agency name} is now authorized under {agency statute or ORS 82.010} to charge interest of {interest rate} and penalties of {amount and statute}.

{State Agency Name} must receive payment in full of your past due account by <month><day>, <year> to prevent us from forwarding your account to collection without further notification to you.

{Insert language from section 117 if your agency adds the cost of collection according to ORS 293.231 (12) when using a private collection firm}

You may contact me at _____-_______ between _____a.m. and _____p.m.

121. Rehearsing the opening statements for the telephone call will enable the collector to sound confident and professional.