

OREGON ACCOUNTING MANUAL

 <p>STATEWIDE POLICY</p>	NUMBER 35.30.40	SUPERSEDES 35.30.40 dated 04/15/2013
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Division Chief Financial Office	REFERENCE/AUTHORITY ORS 291.015 ORS 293.250 ORS 293.252 ORS 293.590 ORS 646.639	
Policy Owner Statewide Accounting and Reporting Services		
SUBJECT Accounts Receivable Management- Account Activity: Telephone Collections	APPROVED SIGNATURE <i>George Naughton, Chief Financial Officer</i> Signature on file	

PURPOSE

This policy provides guidelines to assist state agencies in the effective use of the telephone as a collection tool. It also alerts collection staff to various restrictions placed on telephone collection techniques by federal and state laws.

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](#).

FORMS/EXHIBITS/INSTRUCTIONS

None.

DEFINITIONS

Click here for other [definitions](#).

EXCLUSIONS AND SPECIAL SITUATIONS

None.

POLICY

101. State agency management must ensure that state agency personnel employ appropriate and lawful practices in the collection of accounts receivable.
102. State agencies are encouraged to incorporate telephone contact attempts into their written internal policies and procedures for the collection of accounts receivable (refer to [OAM 35.30.10](#)).
103. State agency management is responsible for determining when it is an appropriate use of its resources to attempt to contact a debtor by telephone as part of its collection processes. It is recommended that each state agency establish an internal policy on this, including the identification of a threshold of when the state agency pursues telephone collections. This policy

should be documented as part of the schedule of collection activity referenced in [OAM 35.30.10](#).

104. State agencies that attempt to make telephone contact must follow the guidelines outlined in this policy.
105. State agencies must comply with the Oregon Unlawful Debt Collection Practices statute, **ORS 646.639**, related to consumer debt. Agency staff undertaking telephone collections must read, understand, and comply with the provisions of **ORS 646.639**. The provisions of **ORS 646.639** indicate that the following actions are considered unlawful collection practices:
 - a. Use or threatened use of force or violence
 - b. Threatening the arrest or criminal prosecution of the debtor
 - c. Threatening seizure, attachment, or sale of property without disclosing the required legal proceedings
 - d. Use of profane, obscene, or abusive language with the debtor or the debtor's family
 - e. Communication with the debtor or debtor's family repeatedly or at inconvenient times with the intent to harass or annoy (inconvenient times are generally between 9:00 p.m. and 8:00 a.m. of the debtor's time zone)
 - f. Communication or threatened communication with the debtor's employer concerning the nature or existence of a debt
 - g. Communication with the debtor at their place of employment without their permission (some exceptions apply, refer to **ORS 646.639(2)(g)**)
 - h. Communication with the debtor without clearly identifying the collector's name and the name of the entity where the debt was originated
 - i. Oral communications without disclosure of the collector's name and the purpose of the contact within 30 seconds
 - j. Causing any expense to the debtor through communication mediums by concealing the true purpose of the contact
 - k. Attempting or threatening to enforce a right or remedy that does not exist, or one that the collector would not normally take
 - l. Using any form of communication that simulates a legal process where such a legal process has not been approved or authorized
 - m. Representing that additional charges may be imposed when those charges may not be legally included
 - n. Collecting or attempting to collect interest or other charges in excess of the debt, unless the fees are authorized by the agreement or by law
 - o. Threatening to assign or sell the account in a manner that misrepresents to the debtor that they may lose their defense to the debt or be subjected to harsh collection tactics

The above actions represent only a general summary of the law. State agency collection personnel must read and be familiar with the full context of **ORS 646.639**.

106. State employees who collect debt during the performance of their official duties are specifically exempt from coverage under the Fair Debt Collections Practices Act (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 Fair Debt Collections Practices Act and recommends that all agencies voluntarily comply. Many provisions of the state and federal laws overlap. The Fair Debt Collection Practices Act makes the following practices illegal:

- a. Threats of violence, obscene language, harassing phone calls, and publication of debtors
- b. Calling the debtor at work, if the debtor objects
- c. Impersonating government officials or misrepresenting the identity of the collector
- d. Revealing the fact of the past due debt to a third party, such as a neighbor or employer, however, allowance is made to report the debt to spouses, credit bureaus, or the agency's attorney
- e. Calling at unusual times (federal law suggests the hours of 8:00 a.m. to 9:00 p.m. as acceptable times for communicating with a debtor)
- f. Circumventing an attorney, if it is known that an attorney represents the debtor

The above practices represent only a general summary of the law. It is recommended that state agency collection personnel read and be familiar with the full context of the Fair Debt Collection Practices Act.

107. State agencies should train their collection staff in areas of telephone etiquette and customer service.
108. The collector must know their state agency's guidelines concerning debt collections, since the state agency's guidelines may be more stringent than Oregon Accounting Manual guidelines.
109. Conversations with a debtor must be documented and retained with the account. Refer to [OAM 75.35.05.FO](#) for a sample Account Contact Record form. Refer to [OAM 35.30.10](#) for more information on documentation and record keeping.

PROCEDURES

110. Before contacting the debtor by telephone, the collector is recommended to prepare for the collection call as follows:
 - a. Examine all previous records of the account
 - b. Identify the general category of the account, that is, traditional slow pay, intermittent delinquent, disputed account, temporary financial problems, or delinquent non-payment
 - c. Review previous collection efforts
 - d. Ensure records are up-to-date, reflecting all account receipts, to avoid making unwarranted calls
111. It is important for the collector to know to whom they are speaking and for the debtor to know exactly who is calling. If a third party asks what the call is in regards to, the collector must not reveal the debt, instead they should say that they must discuss that with Mr. or Ms. <LAST NAME>. When the debtor is on the phone, the collector should:
 - a. State who they are and why they are calling (refer to paragraph 105(i)).
 - b. Ask for immediate payment in full or a partial payment.
 - c. Remind the debtor if there was a previous broken agreement to pay.

- d. Wait for the debtor to respond. It may take more than a few seconds for the debtor to respond, but be patient.
 - e. Be interested and attentive to what the debtor has to say, and stay focused on the debtor not on what the collector wants to say next. If the debtor does not answer a question, ensure the question has been understood by repeating it another way. Be positive to avoid blaming the debtor for not understanding.
112. During the telephone call, the collector has an opportunity to:
- a. Update existing debtor data and gather additional information
 - b. Find out who has the authority to pay, and when identified, focus calling activity on that responsible person
 - c. Respond to new information
 - d. Obtain an immediate answer
 - e. Persuade the individual to make payment
 - f. Get a commitment from the individual to make a specific payment on a specific date
113. When speaking on the telephone, the collector projects not only an image of the agency, but also that of the State as a whole. To be effective, the collector must sound confident. The following are tips that can help a collector to present a positive image:
- a. Courtesy. The collector should be courteous and professional while talking with the debtor. The purpose of calling the debtor is to get a commitment to pay the debt, not to upset them. If the debtor gets upset on the phone, it may be better to politely break off the conversation and call back later; however, the collector should not allow the debtor to use emotional outbursts to avoid dealing with the debt repayment.
 - b. Tone. The collector should keep a clear, pleasant sound to their voice. Some collectors recommend smiling while talking, since the difference it makes in voice tone is noticeable.
 - c. Inflection. The collector's voice should have a natural tone, and not be monotone. The collector should speak firmly, but not shout.
 - d. Speed. The collector should use a normal rate of speech, not over-emphasizing words, or speaking too fast.
 - e. Clarity. The collector should speak distinctly, and not use acronyms or complicated terminology that the debtor may not understand. Remarks of hesitation, such as "uh" should be avoided.
 - f. Acknowledgement. The collector must strive to get the debtor to acknowledge the debt before they can persuade the person to pay.
 - g. Subject. The collector must stay focused on the debt and not allow unrelated issues to sidetrack them. Some debtors may attempt to antagonize, but collectors must avoid arguing and maintain control at all times.
 - h. Accuracy. The collector must never say they will do something they cannot do, or do not intend to do. If the collector cannot make a payment arrangement, the collector needs to be specific as to what they intend to do and are required to do.
114. If the debtor becomes antagonistic, remain calm and stay in control. Do not let the tone of the conversation heighten.

115. If the debtor says they never received the invoice, take their word for it. Verify the name and address, and mail a duplicate copy of the invoice that day. Ask for a commitment for immediate payment and provide the specific date by which the state agency must receive payment. Call back if the state agency does not receive payment by the new agreed upon date.
116. If the debtor says that they have already paid the account, gather the payment information; such as, where the debtor sent the payment, the date the debtor sent the payment, and how much the debtor paid. Ask for copies of the front and the back of any cancelled checks. At a set time, review the account. If the state agency receives payment, the state agency may call and express appreciation for the payment. If the state agency does not receive payment, call to verify non-payment.
117. If the debtor says the state agency has made an error, or if the debtor disputes the amount or existence of the debt, gather appropriate information and follow applicable state agency procedures.
118. Some debtors may play on the collector's sympathy by explaining their problems; the collector should:
 - a. Listen to the debtor's story, and be empathetic
 - b. Remind the debtor that the opportunity to dispute may have elapsed (e.g. administrative hearing or judicial process)
 - c. Ask questions to obtain the facts, while expressing an understanding and caring attitude
 - d. Repeat the request for payment in full, or for the debtor to bring the account current
119. If the debtor has filed for, or is in bankruptcy, the collector must follow certain procedures under Title 11 of the U.S. Code. Information concerning who has filed for bankruptcy is available at the following web site: <http://www.pacer.gov/>. (Note: registration is required to access this site.) For additional information, view the October 2017 [Bankruptcy 101](#) training.