



*Executive summary*

2019

**Report on private  
collection firm use  
and collection rates  
(HB 5201)**

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January 18, 2019



# Introduction

House Bill (HB) 5201 (2018) included the following instructions for the Department of Revenue:

*Report on the agency's use of private collection firms and private collection firm's rates as compared to the agency's internal collection activities.*

Additionally, the department produced a broader background paper in 2013 that highlights the department's historical partnership with private collection firms (PCFs) and the agency's ongoing strategic approach to PCF use in optimizing collection outcomes.

## Background

To understand DOR's current use of private collection firms (PCFs), it is helpful to consider both the department's historical use and its current strategic priorities. The use of PCFs by Oregon state agencies, including DOR, was discretionary prior to HB 3509 (1999). Before HB 3509, DOR primarily used PCFs when unable to locate a debtor, when the debtor was believed to reside outside of the state of Oregon, or after DOR agents had exhausted their collections options. After HB 3509, DOR was required to transfer non-exempt accounts to PCFs when no payment had been received within one year. However, DOR was allowed the discretion to send accounts to PCFs sooner if use of the PCF increased likelihood of successful collection of the debt.

While DOR has used PCFs to collect on tax debt, the department's Other Agency Accounts (OAA) Unit began using PCFs in July 2018 as part of the implementation of the requirements in Senate Bill (SB) 1067. Prior to SB 1067, executive branch agencies had the option to assign their accounts to a PCF or OAA for active collections. However, starting in July 2018, the process by which executive branch agencies collect their liquidated and delinquent accounts changed. The new legislation required executive branch agencies to send their accounts to OAA rather than a PCF and centralized the management of PCF relationships and performance (specific to executive branch agency collections) in OAA. It also required OAA to send executive branch agency accounts to PCFs after six months without a payment rather than returning the account to the originating client agency for them to determine further action, thus increasing PCF use.

## Overview of agency collections

Optimizing collection efforts is one of the department's three strategic priorities. As part of the optimizing collection efforts, each collection team within the department employs collection strategies specific to the account types it addresses. Common internal collection strategies—including when and how to use PCFs—focus on collection activities that:

- Maximize collection revenues.
- Streamline processes.
- Leverage GenTax.
- Provide quality customer service to debtors and client agencies.

While there are differences in debt characteristics and collection processes between the department's tax and OAA, there are also strong similarities in their overall collection strategy and approach. Both groups aim to quickly resolve the debts they are responsible for collecting.

## Collection rates and differences in collection tools

Historically, DOR has outperformed PCF collection rates by a consistent margin. Multiple factors may contribute to the difference in collection rates. The difference in collection tools available to DOR and PCFs likely contribute to the collection rates. There are some ways that DOR and PCFs are relatively comparable. Both are able to negotiate payment arrangements with a debtor, but DOR has a stronger incentive to offer payment arrangements. DOR's compliance goals consider both short-term gains and long-term revenue stream protection, which is dependent upon taxpayers voluntarily fulfilling their tax filing and payment obligations on an ongoing basis. In contrast, PCFs are more focused on short-term revenue gains. DOR assumes that a roughly comparable level of collection skill and knowledge exists in both DOR and PCF agents.

## **Conclusion**

PCFs serve an important role in DOR's efforts to optimize collections. The department continues to monitor and evaluate results to inform future PCF use opportunities and identify areas for potential improvement or for adjustment. With the implementation of GenTax, the department can now leverage automation and access to better data and analytics to more effectively partner with PCFs. DOR's approach to using PCFs, coupled with internal collections strategies, will remain focused on continually improving collection outcomes.



2019  
*HB 5201*

# **Report on private collection firm use and collection rates**

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January 18, 2019



## Introduction

House Bill (HB) 5201 (2018) included the following instructions for the Department of Revenue:

*Report on the agency's use of private collection firms and private collection firm's rates as compared to the agency's internal collection activities and rates.*

## Background

To understand DOR's current use of private collection firms (PCFs), it is helpful to consider both the department's historical use and its current strategic priorities. The use of PCFs by Oregon state agencies, including DOR, was discretionary prior to HB 3509 (1999). Before HB 3509, DOR primarily used PCFs when unable to locate a debtor, when the debtor was believed to reside outside of the state of Oregon, or after DOR agents had exhausted their collections options. After HB 3509, DOR was required to transfer non-exempt accounts to PCFs when no payment had been received within one year. However, DOR was allowed the discretion to send accounts to PCFs sooner if use of the PCF increased likelihood of successful collection of the debt.

While DOR has long used PCFs to collect on tax debt, the department's Other Agency Accounts (OAA) Unit began using PCFs in July 2018 as part of the implementation of the requirements in Senate Bill (SB) 1067. Prior to SB 1067, executive branch agencies had the option to assign their accounts to a PCF or OAA for active collections. However, starting in July 2018, the process by which executive branch agencies collect their liquidated and delinquent accounts changed. The new legislation required executive branch agencies to send their accounts to OAA rather than a PCF and centralized the management of PCF relationships and performance (specific to executive branch agency collections) in OAA. It also required OAA to send executive branch agency accounts to PCFs after six months without a payment rather than returning the account to the originating client agency for them to determine further action, thus increasing PCF use.

DOR has updated its approach to PCF use over time to align with its collections strategies, processes, and tools. In 2013, the department produced a broader background paper on use of PCFs by DOR and other tax agencies and a budget note response specific to DOR's use of PCFs. Both are attached for reference.

## Overview of agency collections

Optimizing collection efforts is one of the department's three strategic priorities. As part of the optimizing collection efforts, each collection team within the department employs collection strategies specific to the account types it addresses. Common internal collection strategies—including when and how to use PCFs—focus on collection activities that:

- Maximize collection revenues.
- Streamline processes.
- Leverage GenTax.
- Provide quality customer service to debtors and client agencies.

While there are differences in debt characteristics and collection processes between the department's tax and OAA, there are also strong similarities in their overall collection strategy and approach. Both groups aim to quickly resolve the debts they are responsible for collecting.

With the implementation of GenTax, the department has incorporated automated processes into its collections activities. Upon assessment or assignment of a new debt, automated billing and collection letters are generated to ensure debtors receive timely due process notices.

Debts are also automatically analyzed by the system using pre-determined business rules to evaluate the account's collectability. A risk score is then determined and the account is placed in the work queue most appropriate for effective resolution—either a department revenue agent or a PCF. The ability to quickly and effectively score and sort debt was one of the key areas of improvement the department identified in its 2013 budget note response on its use of PCFs. At the time, the department was limited by the technology available, but that has changed since the implementation of GenTax.

Accounts with higher scores are generally worked first internally. Emphasis is placed on phone contact with debtors and establishing voluntary payment arrangements whenever possible before proceeding to other active collection tools.

Speed is an important factor for successful collection and debt resolution. How quickly a debtor is contacted once an account becomes liquidated and delinquent can factor into the ease of resolving the account. Because of this, part of DOR’s PCF assignment strategy is to send liquidated and delinquent tax debts to a PCF for immediate collection action if the debt would otherwise remain aging and unworked in the department’s accounts receivable due to workload constraints.

Tax and OAA collectors also take advantage of the databases and other information available to them to aid in identifying assets for collection, such as the Financial Institution Data Match program, Employment Department and Driver and Motor Vehicles Division databases or the Department of Justice’s State New Hire Reporting. Automated searches are routinely run against data sources to look for new information related to accounts in collections, and garnishments are actively pursued when eligible assets are identified. Collection results are continually monitored and periodic adjustments are made to maximize collections.

## DOR Use of PCFs

### *Comparing collections tools of DOR and PCFs*

There are some ways that DOR and PCFs are relatively comparable. Both are able to negotiate payment arrangements with a debtor; however DOR has a stronger incentive to offer payment arrangements. The department’s compliance goals consider both short-term gains and long-term revenue stream protection, which is dependent upon taxpayers voluntarily fulfilling their tax filing and payment obligations on an ongoing basis. In contrast, PCFs are more focused on short-term revenue gains.<sup>1</sup>

Both may also generate automated letters to debtors, although the content and frequency of the correspondence differs. DOR assumes that a roughly comparable level of collection skill and knowledge exists in both DOR and PCF agents; however, DOR and PCFs have different sets of collections tools that contribute to their collection success.

<p><b>DOR agents can:</b></p> <ul style="list-style-type: none"> <li>• Access confidential and proprietary taxpayer information such as wage, tax return and financial transaction data, as well as</li> <li>• Access state agency databases.</li> <li>• Issue administrative notices of garnishment<sup>2</sup> and liens on property.</li> <li>• Answer detailed questions about Oregon’s tax programs.</li> <li>• Make decisions regarding canceling or writing off debt.</li> <li>• Negotiate settlements offers and approve or deny penalty waiver requests (tax debt only).</li> <li>• Access Financial Institution Data Match (FIDM).</li> <li>• Perform site visits to debtor’s home or business.</li> <li>• Access some skip tracing tools.</li> </ul>	<p><b>PCFs can:</b></p> <ul style="list-style-type: none"> <li>• Auto-dial outgoing phone calls, making contacting debtors less manual and time consuming.</li> <li>• Temporarily hire additional agents when workload exceeds capacity of existing staffing levels (required per DAS contract).</li> <li>• More frequently access multiple fee-based skip tracing tools without procurement and process constraints. Also, dynamically update and purchase more tools as needed.</li> </ul>
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<sup>1</sup> In 2007, the National Taxpayer Advocate gave testimony regarding a fundamental difference between tax authorities and PCFs as part of a report on the IRS’s unsuccessful attempt to use PCFs to collect tax debt. The testimony explained that part of the issue was that PCFs do not and, arguably, should not focus on long-term compliance when collecting, as the “fiduciary duty of a private company is to maximize profits for its shareholders.” United States. Congressional Committee on Ways and Means, U.S. House of Representatives. “Hearing: IRS Private Debt Collection.” 23 May 2007.

<sup>2</sup> PCFs may request that DOR issue notices of garnishment for accounts being worked at the PCF. Under certain conditions, a PCF may issue writs of garnishment, but only DOR has authority to issue the notices of garnishment. A writ of garnishment requires court action, whereas issuing a notice of garnishment is a statutory authority used by the Department of Revenue (ORS 18.854). Writs of garnishment are typically valid for 90 days and are subject to a minimum wage exemption. Notices of garnishment are not subject to that exemption and these garnishments will continue until the debt is paid in full or the garnishment is released.



Overall, there are some challenges, administrative burden, and risk in sending accounts to PCFs. These include:

- DOR issues administrative notices of garnishment on behalf of PCFs and provides account handling throughout the process, including receipt of payments and communication with the employer or financial institution. This involves internal resources still handling a significant portion of administrative work related to the account even though the department is not performing the collections work.
- DOR has additional tools and access to data that cannot be used while an account is assigned to a PCF without risk of violating the federal Fair Debt Collection Practices Act. DOR cannot take action on assets until the account is returned from the PCF.
- Tax account balances assigned to a PCF are part of DOR's accounts receivable, even though DOR cannot take actions to resolve those debts while they are with the PCF.
- Some debtors are confused about where to go for account resolution when their accounts are assigned to a PCF, resulting in additional administrative work for internal resources.
- DOR resources are still used for customer service, administrative support, and account maintenance while accounts are assigned to PCFs.

### *Tax debts*

DOR's determination as to whether and how to use of PCFs to collect on tax accounts consist of three components: statutory compliance, assignment of small balance accounts, and customer experience. When combined, these considerations ensure accounts are being assigned to PCFs timely and appropriately.

First, the department must comply with statutory requirements for sending liquidated and delinquent tax accounts to PCFs. In accordance with ORS 293.231, the following criteria is used to determine when an account must be sent to a PCF for collection:

- No payment has been made within one year.
  - "Payment" includes direct payments on any of the debtor's accounts, but does not include refund offsets.
- There is no authorized exemption under ORS 293.231(5)(7).

To comply with other collection regulations and DOR policies, DOR has requested and DAS has approved the following additional exemptions to the PCF assignment requirement, as allowed by ORS 293.231(5)(7):

- The department has approved a settlement offer for the account.
- The debtor is in the military and serving in a combat zone.
- The debtor is deceased.
- The debtor is a business known to be actively operating.
- The debtor has been identified as a tax resistor.
- The debtor meets the criteria for suspend collections status under ORS 305.155.
- Debtor has an open and/or active bankruptcy case.
- The debtor is currently incarcerated.
- Debtors who have failed to file a tax return and the department has calculated the tax.

Second, the department assigns accounts with a specific type of small balance to PCFs when the account is liquidated and delinquent, and eligible for collections. The following criteria is used to assign these specific small balance accounts:

- Balance must be less than \$1,000.
- No payment received within 90 days.

Assigning these small balance accounts to the PCFs helps ensure DOR is directing Revenue Agent resources to work accounts benefiting from the use of DOR collection tools. These specific low balance accounts can be contacted timely by the PCFs helping support DOR's efforts to maximize collections.

Finally, the third component focuses on improving customer experience and increasing efficiency by keeping all of a taxpayer's accounts together. When a debtor has a tax account already assigned to a PCF, DOR will assign all tax debts for that debtor to the same PCF. Any new tax debt established during the assignment timeframe will also be assigned to the PCF. It's easier for the debtor to have one point of contact for addressing their accounts, and for the department when tracking progress on the collection of these debts.

### OAA debts

In relation to the collection of executive branch agency accounts, OAA’s determination as to whether and how to use PCFs consists of two components: identification of appropriate accounts and PCF management.

First, accounts must meet one of the following criteria to be assigning to a PCF:

- No payment has been made within six months. “Payment” includes direct payments on any debt owed by the debtor, but not refund offsets.
- The debtor has an existing OAA collection account that is already assigned to a PCF by OAA.
- The OAA collection account risk score is below the minimum threshold for internal collections work. This threshold can be raised or lowered in response to the availability of OAA collection resources. Risk scores in OAA are automatically calculated on a weekly basis.

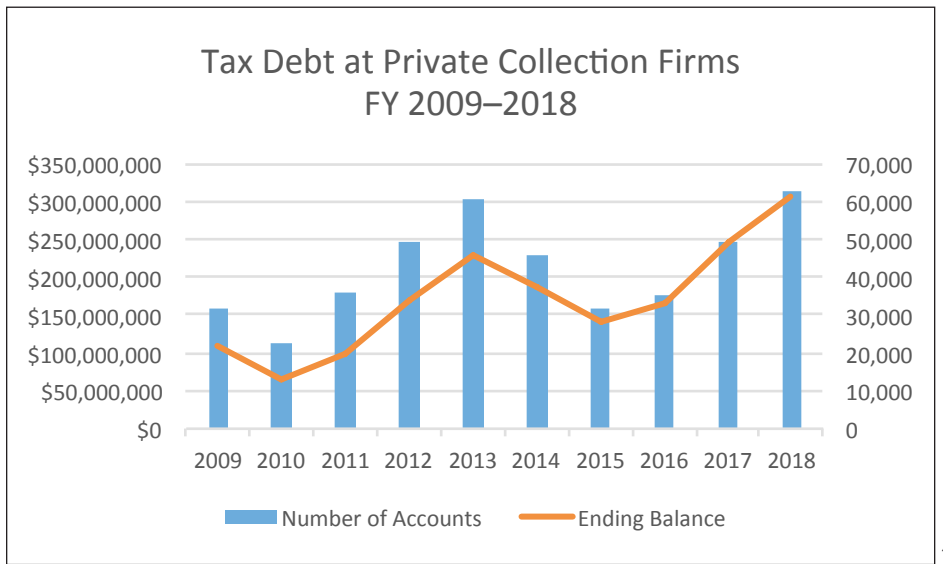
Second, PCFs must be performing at an acceptable level. Prior to the implementation of SB 1067, the PCF oversight activities were handled by disparate state agencies. OAA now consistently receives data and other information from PCFs to assess performance across service providers, including monthly performance metrics. If a PCF is not meeting performance expectations, OAA may consider not sending additional accounts to underperforming PCFs or choose to send accounts to other statewide approved PCFs.

## Accounts Receivables and Collection Rates

Due to the difference in tax debt collections versus the OAA centralized collection services, it is useful to distinguish between DOR tax and OAA accounts when discussing accounts receivables and collection rates.

### DOR Tax accounts

The chart below shows tax accounts DOR has sent to PCFs. Between 2009 and 2018, the number of accounts sent by DOR to PCFs nearly doubled and the amount of debt has almost tripled. In fiscal year 2009, DOR reported 31,565 delinquent accounts being worked by PCFs, representing slightly over \$110 million in delinquent taxes. At the end of Fiscal Year 2018, DOR reported 62,620 delinquent accounts being worked by PCFs, representing \$308 million.<sup>3</sup>



The decline in the number of accounts assigned to PCFs in 2015 was the result of preparation for conversion to GenTax. Prior to the implementation of GenTax for the personal income tax program in 2015, DOR required PCFs to return all accounts to the department for a period of time so the accounts could be transitioned into GenTax. The assignment of collection accounts to PCFs resumed in December 2015.

<sup>3</sup> Reports on Liquidated and Delinquent Accounts Receivable for fiscal years 2009 – 2017 as published by Legislative Fiscal Office. DOR submission to LFO used for fiscal year 2018.

<sup>4</sup> In 2015 DOR pulled back accounts for data conversion and didn’t start reassigning debts to PCFs until December. The methodology of reporting liabilities and accounts changed during this conversion period. A single account in GenTax may include multiple liabilities.

It is important to note that accounts are defined differently in GenTax than they were in the department's legacy systems. In the DOR legacy systems, a debtor who owed for multiple account types, for example personal income tax and lane self-employment tax, was considered one account. In GenTax, a debtor with this same example is considered as two accounts.

Another reason for the increase in accounts assigned to PCFs is that DOR is now sending more failure-to-file assessment debt to PCFs. Appropriate calculation of tax liability is dependent upon complete knowledge of the taxpayer's income and tax situations. Failure-to-file (FTF) assessments occur when a taxpayer fails to file a required return and the department estimates their tax liability based on only the information available to the department at that time. Without the full picture, the estimated liability may be more or less than the actual liability, but the taxpayer is responsible for that liability until they file a return showing how their liability should be adjusted.

As discussed in the department's 2013 budget note response about PCF use, the department had requested and received exemption from the requirement to assign these debts to PCFs after a year of no payments as part of its strategy for handling of this type of account. These accounts were traditionally worked in-house because DOR staff had the authority to negotiate the amount of tax liability and could best assist the taxpayer in filing the return(s) required to determine their actual tax liability. At the time, the department stated it was reconsidering its approach to collecting failure-to-file assessment debt, including PCF use. Despite having the exemption, DOR began updating its collection strategy surrounding failure to file accounts in 2014. In collaboration with PCFs, DOR began to manually assign FTF accounts that could not be resolved internally. Today, DOR sends all eligible failure-to-file accounts to PCFs automatically as part of its normal course of collections.

#### ***OAA accounts***

DOR's OAA unit provides collection services on debts that are part of another agency's accounts receivable. OAA's account inventory is not part of DOR's accounts receivable.

OAA's client agencies are responsible for taking the collection steps required by OAM Chapter 35 and other laws and rules to attempt to obtain payment of their accounts receivable. The steps provided in OAM Chapter 35 ensure Oregon state agencies adhere to due process notification requirements and that further collection action is avoided whenever possible. Agency attempts to resolve their accounts receivable, including the processes to render debt as liquidated and delinquent, are required prior to accounts being assigned to OAA for collection services. Executive branch agencies are required to refer liquidated and delinquent debts to OAA within 60 days of the account reaching liquidated and delinquent status.

Prior to fiscal year 2019, OAA did not work with PCFs in its line of work. OAA staff would attempt to collect on an account for one year. If collection attempts were unsuccessful, OAA would return the account to the originating agency. That agency would then send the account to a PCF for further attempts at collection.

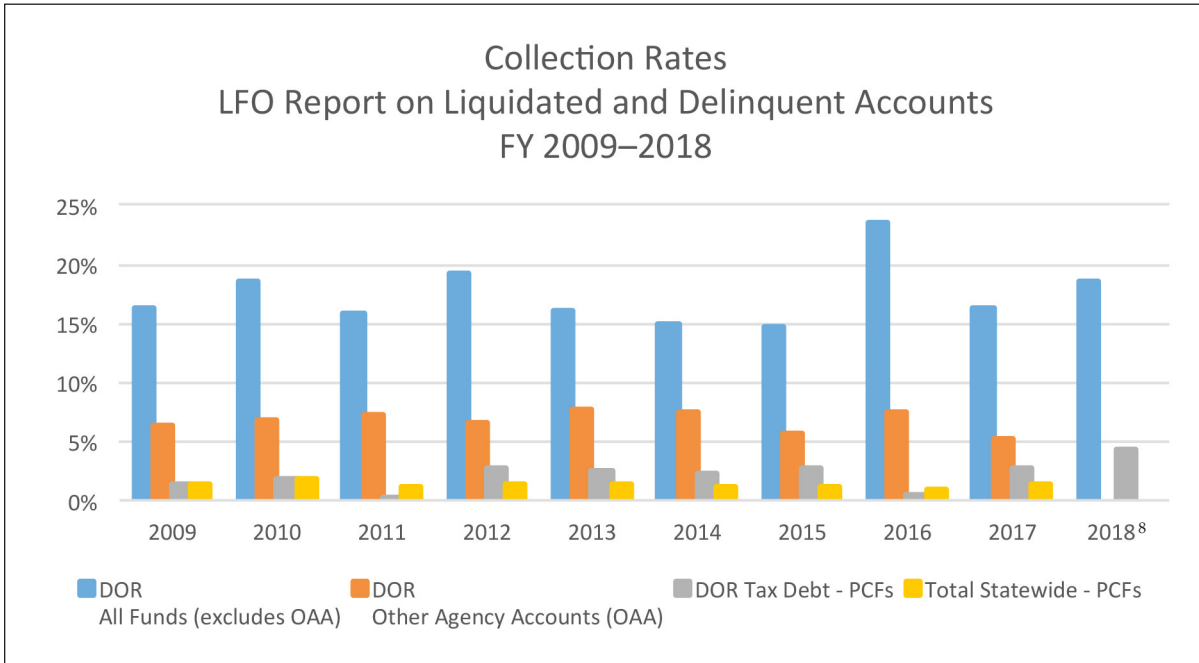
As of July 1, 2018, OAA began managing the PCF referral process for executive branch agency accounts, as required under SB 1067. OAA is required to send executive branch agency accounts—not including tax debts—to PCFs if there is no payment on the account within a six-month period. OAA also has the discretion to send accounts to PCFs earlier than that if it would improve the likelihood of account resolution. Currently, OAA does this when additional debt is received for a debtor who is already being collected on by a PCF, and in other specific circumstances. OAA has sent approximately 4,500 debts with a total amount of \$30.7 million to PCFs between July 1, 2018 and September 10, 2018.

**Collection Rates**

The formula used by the Legislative Fiscal Office (LFO) and the Secretary of State’s Office divides the amount collected by the beginning balance plus additions.

$$\frac{\text{Collections}}{(\text{Beginning Balance} + \text{Additions})} \text{ } ^5$$

The table below shows collection rates since 2009 for DOR’s tax and OAA collections, PCFs collecting tax debt, and PCFs statewide based on the information provided in LFO’s annual report on liquidated and delinquent accounts.<sup>6</sup>



There are a couple of ways in which this calculation of a collection rate can be too simple to capture the nuance in accounts receivable fluctuations. First, the collection rate does not account for actions other than payments that impact the accounts receivable total. For example, changes due to debts that are written-off, adjustments (both debits and credit), offsets, bankruptcies, and appeals are not accounted for in the year in which they occur. Instead, the debt is removed from the beginning balance used in the calculation for the following year’s collection rate.

Another issue is the treatment of additional debt added during the year. The rate calculation formula shown above does not take in to account when the debt was received. For example, collection rate calculations in the LFO liquidated and delinquent report treat a debt received on the first day of the fiscal year the same as a debt received on the last day. Payments that are collected by DOR while the account is assigned to a PCF are also reported in the PCF portion of the LFO report. For example, garnishment payments that resulted from DOR issuing garnishments on behalf of PCFs.<sup>7,8</sup>

<sup>5</sup> In response to the 2013 budget note about DOR’s use of PCFs, DOR used the formula “total dollars collected during the fiscal year divided by the beginning balance plus half the value of additional liabilities added during the period.” DOR has updated the formula to be in alignment with LFO and the Secretary of State.

<sup>6</sup> Reports on Liquidated and Delinquent Accounts Receivable for fiscal years 2008 – 2017 as published by Legislative Fiscal Office. DOR submission to LFO used for fiscal year 2018, as LFO is in the process of publishing 2018 information. DOR tax collections were overstated in the departments FY2016 annual LFO report due to data conversion from legacy systems to GenTax. This reporting error has been corrected for future report years.

<sup>7</sup> DOR tax collections was overstated in the FY 2016 LFO report due to data conversion from legacy systems. This reporting error was corrected for future year reports.

<sup>8</sup> 2018 OAA and Statewide PCF not included. LFO is in the processing of publishing information for fiscal year 2018.

## **Conclusion**

PCFs serve an important role in DOR's efforts to optimize collections. The department continues to monitor and evaluate results to inform future PCF-use opportunities and identify areas for potential improvement or adjustment. With the implementation of GenTax, the department can now leverage automation and access to better data and analytics to more effectively partner with PCFs. DOR's approach to using PCFs, coupled with internal collections strategies, will remain focused on continually improving collection outcomes.