

21.01.04 Extension of Credit, Delinquent Accounts, Collections and Write-offs



Revised [August 5, 2019](#)

Next Scheduled Review: August 5, 2024

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Regulation Summary

This regulation provides guidelines for the extension of credit, the collection of delinquent accounts, and the referral of delinquent accounts to The Texas A&M University System (system) Office of General Counsel (OGC) to request a final demand or write-off or formal referral to the Attorney General of Texas (AG).

Definitions

Click to view [Definitions](#).

Regulation

1. EXTENSION OF CREDIT

- 1.1 Member chief financial officers (CFO) are delegated the authority to approve the sale of goods and services on credit, provided such extension of credit serves the best interest of the system and the public good of the state of Texas.
- 1.2 The CFO is required to maintain written documentation explaining the circumstances requiring an extension of credit.
- 1.3 Payment for the sale of goods and services on credit is expected within 30 days. Special circumstances requiring the extension of credit for longer than 30 days must be disclosed in the documentation maintained by the CFO.
- 1.4 Factors the CFO should consider in determining if extending credit serves the best interest of the system and the public good of the state of Texas include the:
 - (a) efficiency of conducting business;
 - (b) administrative cost savings and/or the benefits of extending credit that exceed the costs;
 - (c) credit requestor's previous payment history and/or financial capacity to repay the debt; and
 - (d) consistency of standards applied to all applicants requesting an extension of credit.

2. INTERNAL CONTROL

- 2.1 Member guidelines to approve requests for extension of credit must ensure the information, record-keeping and control systems used for decision-making provide the accuracy and reliability required to protect member assets. Members should review guidelines periodically and update as necessary.
- 2.2 An approved extension of credit is required to be reviewed biennially or annually.

3. IDENTITY THEFT PREVENTION PROGRAM

- 3.1 Each member must periodically conduct a risk assessment to determine whether it has any covered accounts. If a member has covered accounts, the member's guidelines must include a written identity theft prevention program to detect, prevent and mitigate identity theft related to new and existing covered accounts.
- 3.2 A member's written identity theft prevention program must include reasonable guidelines to:
 - (a) identify relevant red flags for covered accounts at the member and incorporate those red flags into the program;
 - (b) detect red flags that have been incorporated into the program;
 - (c) respond appropriately to any red flags detected to prevent and mitigate identity theft; and
 - (d) ensure the program is updated periodically to reflect changes in risk factors.

As part of designing an identity theft prevention program, a member must consider the Federal Trade Commission's (FTC) guidelines and incorporate appropriate guidelines into its program. The guidelines are found in Appendix A to the FTC's Red Flags Rule.

- 3.3 Each member's initial written identity theft prevention program must be approved by the chancellor or designee.
- 3.4 Members should assign the responsibility for the program to a senior management position.
- 3.5 Member programs will require training for appropriate personnel to recognize activities that may be the result of identity theft. The training will include:
 - (a) steps to verify the identity of the person opening a covered account;
 - (b) the monitoring of transactions for suspicious activity;
 - (c) verifying the validity of changes of address;
 - (d) guidelines for the appropriate response to activity that is suspicious; and
 - (e) any other activity deemed to be a potential risk.

- 3.6 Member guidelines and programs should be reviewed and updated periodically to reflect changes in risk factors.

4. DELINQUENT ACCOUNTS

- 4.1 Each member will adopt guidelines to establish and determine the liability of each person responsible for delinquent obligations. Member records must contain the identity, specifically including either a taxpayer ID, EIN, FEIN, or state/national identification number, of all persons liable on any part of the obligation and reflect the correct physical address of the debtor's place of business or, where applicable, the debtor's residence.
- 4.2 The AG's Uniform Collections Guidelines provide that no more than two demand letters should be transmitted to debtors for AG referral. However, as members are not required by statute to exclusively refer all collection actions to the AG, members are not required to adhere to strict form and timing for all demand letters. For example, a first demand letter could be an emailed invoice that states that if the debtor does not pay by a certain deadline that the member will put the debtor on state warrant hold. Additionally, emailing a single communication demanding payment of an amount is sufficient to place a debtor on state hold, unless this is a guarantor relationship. Another example of a compliant demand would be sending a statement of account each month by email, fax or mail that shows the amount owed to the member. However, where system procedures, member guidelines, or statutes require, members should expressly indicate on their demand letter that a lawsuit on the account may be filed by the AG. Documentation of all attempts to collect the debt must be recorded and maintained on file.
- 4.3 When the debt is determined to be delinquent, members must utilize the state comptroller's warrant hold process to ensure payments are not issued to the individual or entity that is indebted to the state. The warrant hold process is detailed in the state comptroller's Accounting Policy Statement (APS) 028, *Reporting of State Debts and Hold Offset Procedures*.
- 4.4 For a delinquent account that will be referred to the AG for collection, each member must send no more than two mailed demand letters upon determining that the member desires AG assistance, regardless of the timing of initial attempts to collect. Members should reasonably comport with the AG's Uniform Collection Guidelines regarding the timing of mailing demand letters as shown below. The member must verify the debtor's address and telephone number as well as verify that the obligation is not legally or practically uncollectible prior to referring the delinquent account to the AG. Referrals to the AG's office are governed by System Regulation 09.04.01, *Legal Counsel and Attorney General Opinion Requests*.
 - 4.4.1 1st Demand Letter: Mailed USPS First Class Mail around 30 days after the debt has been determined delinquent and AG referral is desired.
 - 4.4.2 2nd Demand Letter: Mailed USPS First Class Mail around 30-60 days after the first demand letter was mailed according to the AG referral process.
 - 4.4.3 Refer to the AG through OGC around 90 days after the member determines it will request AG assistance.
- 4.5 Members will establish reasonable tolerance levels in determining which delinquent accounts should not be referred to a collection agency or the AG. Establishing tolerances

will help determine whether it is feasible to submit these debts for external collection activities. Not all debts will be required to be referred to collection agencies or the AG; however, all debts must be pursued by members or OGC on behalf of members. Factors to consider when establishing tolerance levels should include the:

- (a) size of the debt;
- (b) existence of any security or collateral;
- (c) likelihood of collection through passive means;
- (d) cost to the member or AG in attempting to collect the obligation; and
- (e) the availability of resources within the member or AG to devote to the collection of the obligation.

4.6 If, considering the reasonable tolerance factors for delinquent accounts, a member determines further collection should not be actively pursued, the member is not required to expend resources for further collection efforts. Once the member makes the determination that further collection efforts should not be actively pursued, the member should submit a proposed write-off for a legal sufficiency review in accordance with Section 5. Even though the debt is written off, the state comptroller's APS 028 still requires the debt to be placed on state hold regardless of amount.

5. WRITE-OFF OF UNCOLLECTED ACCOUNTS

Each member must utilize OGC to determine whether delinquent accounts can be written off. When contacting OGC for a legal sufficiency review of a proposed write-off, the member must include the following information:

- (a) member guidelines for the collection of receivables and tolerances;
- (b) documentation that the collection procedures have been followed for the accounts to be written off;
- (c) the date the receivable was recorded;
- (d) description of the collection efforts to date;
- (e) documentation that the vendor on-hold steps for the state have been followed;
- (f) confirmation that a hold will be maintained in the financial accounting system for those receivables written off;
- (g) the member's determination and analysis under Section 4.6 that further collection should not be actively pursued;
- (h) debtor information, correct physical address for each debtor (no P.O. Box);
- (i) lien/security procedure (if state law applies);
- (j) procedure for referral to approved collection agency;
- (k) member's write-off policy and guidelines; and
- (l) documentation proving the member followed its write-off policy, which can be accomplished using the system standard form, if used by the member.

If a debt is approved for write-off, procedures outlined in the state comptroller's APS 027, *Accounting for Uncollectible Accounts*, must be followed.

6. COLLECTION AND WRITE-OFF GUIDANCES

The System Office of Budgets and Accounting (SOBA), in conjunction with OGC, developed *Collection and Write-off Guidance* to provide for consistent collection and write-off guidelines. These guidelines will be used by all members in managing delinquent accounts and is posted on the system website. All members are required to post this link on their member websites.

7. COLLECTION AGENCY CONTRACTS

If a member chooses to utilize a collection agency, it must establish and follow collection guidelines in referring delinquent accounts to an AG-approved collection agency. A member may not contract with, retain or employ any person other than a full-time system employee to collect a delinquent obligation without prior written approval of the AG. Any existing arrangement must receive the written approval of OGC and the AG to be renewed or extended. All collection agency contracts, extensions and renewals are subject to and conditioned upon express written approval by OGC and the AG and must utilize the current collection agency contract template provided by OGC. The completed contract or renewal template must be submitted to OGC for approval and submission to the AG. Upon AG approval, OGC will send the approved copy to members for vendor execution. Members must submit fully executed copies of all contracts, extensions and renewals to OGC.

8. TAX LEVIES and FEDERAL BANKRUPTCIES

Members must notify OGC immediately upon any receipt of notice of bankruptcy, whether the bankruptcy order is presented to the member or the debtor notifies the member verbally or in writing. If OGC approves active bankruptcy status, an additional revised warrant hold status form needs to be completed with the state (see APS 028). All collection efforts must come to a stop upon receipt of a bankruptcy notice. OGC will monitor bankruptcy cases and notify members when bankruptcy cases are dismissed or discharged and advise on the status of debt and further collection activities.

Generally, tax levies and federal bankruptcy laws present unique issues. Normally, state checks payable to the Internal Revenue Service (IRS) or a bankruptcy court or trustee do not qualify for state offsets unless authorized by a federal agency. Matters involving IRS tax levies or bankruptcies should be reviewed by OGC to determine the priority of the levies or liens.

Federal bankruptcy laws take precedence over state debts, and the State Comptroller's Office may not offset held warrants/checks for payees in active bankruptcy. Active bankruptcy means a payee has filed for bankruptcy and the case is ongoing. If the case has not been discharged (or dismissed) and closed, it is still active and OGC will monitor this case for members.

Related Statutes, Policies, or Requirements

[1 Tex. Admin. Code § 59.2](#)

[Tex. Educ. Code § 51.010](#)

[Tex. Gov't Code § 403.055](#)

[Tex. Gov't Code Ch. 2107](#)

[Comptroller of Public Accounts, Accounting Policy Statement 027, *Accounting for Uncollectible Accounts*](#)

[Comptroller of Public Accounts, Accounting Policy Statement 028, *Reporting of State Debts and Hold Offset Procedures*](#)

[Federal Trade Commission Red Flags Rule, 16 C.F.R. § 681.1](#)

[Interagency Guidelines on Identity Theft Detection, Prevention, and Mitigation, Appendix A to the Red Flags Rule](#)

[Comptroller's Office Warrant Hold Bankruptcy Rules](#)

[System Offices Collection and Write-off Guidance](#)

[System Regulation 09.04.01, *Legal Counsel and Attorney General Opinion Requests*](#)

Member Rule Requirements

A rule is not required to supplement this regulation.

Contact Office

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