

DEPARTMENT OF PERSONNEL & ADMINISTRATION

Office of the Executive Director

Division of Finance and Procurement

ACCOUNTS RECEIVABLE COLLECTIONS ADMINISTRATIVE RULE

~~(Effective January 1, 1997)~~

1 CCR 101-6

Section

1.00-__PURPOSE, STATUTORY AUTHORITY, RESPONSIBILITY, APPLICABILITY,

~~AND DEFINITIONS,~~ **AND RULE**

1.01-__Purpose

The purpose of this Accounts Receivable ~~Collection~~Collections Administrative Rule is to establish ~~policies~~
~~and procedures~~guidelines for the collection of debts due ~~state agencies~~the State.

1.02-__Statutory Authority

~~24-305-12-102(2)(f)(9),~~ CRS, C.R.S.

24-30-201, ~~CRS(1)(j),~~ C.R.S.

24-30-202.4, ~~CRS~~C.R.S.

24-30-202.7, C.R.S.

24-35-601 through 24-35-607, C.R.S.

39-21-108, ~~CRS~~C.R.S.

1.03-__Responsibility

As authorized in 24-30-202.4(1) C.R.S., and except as specifically noted, the State Controller has delegated the responsibility for the collection of debts due the State to Central Collection Services in the Division of Finance and Procurement in the Department of Personnel & Administration. As a result of that delegation, this Rule refers to Central Collection Services and the Division of Finance and Procurement

when addressing the State Controller's statutory debt collection responsibilities. The delegations are personal in nature to the incumbent managers of Central Collection Services and the Division of Finance and Procurement and are not subject to sub delegation. In the absence of the delegate, the delegate's supervisor may act in the delegate's capacity.

It is the responsibility of the ~~chief executive officer~~Executive Director of each ~~state agency to insure~~

State Department and Participating Institution of Higher Education to ensure compliance with this Accounts Receivable Collections Administrative Rule.

.01- The Executive Director of the Department of Personnel & Administration shall:

A. ~~A. Devise~~Promulgate rules for Central Collection Services in the collection of debts.

B. Establish procedures allowing Central Collection Services to use Private Counsel or Private Collection Agencies to collect debts due the State.

.02 Central Collection Services shall:

A. Act as the State's collection service to be used by all State Agencies and Participating Institutions of Higher Education to collect debts referred by State Agencies and Participating Institutions of Higher Education to Central Collection Services except where exempt by statute.

B. Develop methods to increase the efficiency of ~~state agencies and the~~State Agencies and Central Collection Services in the collection of debts.

~~State Controller in the collection of debts.~~

~~B. Specify the requirements for a debt to be referred to the State~~

~~Controller for further steps to effect collection.~~

~~C. Promulgate rules for the State Controller in the collection of debts.~~

~~D. Establish procedures allowing the State Controller to utilize private counsel or a private collection agency to collect debts due the State.~~

~~.02 The State Controller shall:~~

~~A. Advise and assist various state agencies concerning the collection of debts due the State.~~

~~C. _____ B. Institute procedures for the collection of debts referred to the State~~Central Collection Services.

~~Controller.~~

~~D. _____ C. Utilize private counsel or private~~Advise and provide technical assistance to State Agencies and Participating Institutions of Higher Education in the collection agencies of debts due the State.

Use Private Counsel or Private Collection Agencies to collect debts due the State.

~~D. With the consent of the State Treasurer, write-off, release, or adjust any debt due the State.~~

~~E. _____ .03 As directed when required by statute or determined to be in the best interest of the State Controller, the Central Collection Service shall:~~

~~A. Act as a "collection service" to be used by all state agencies for~~

~~F. _____ debts "Assign debts due the State under legally enforceable contracts to Private Counsel or Private Collection Agencies for collection of the assigned debt.~~

Specify the requirements for debts to be referred" to the State Controller.

~~G. _____ B. Provide technical assistance to state agencies in their~~Central Collection Services for collection.

~~procedures.~~

~~C. Establish guidelines for the state agencies to write-off accounts receivable.~~

~~D. Legally assign debts due the State by contract with private counsel or private collection agencies for the purpose of collection.~~

1.04__ Applicability

~~This rule is applicable to all state agencies.~~

This rule is applicable to all State Agencies and Participating Institutions of Higher Education except where exempt by statute. Except as noted or determined by contract, the rule also applies to the Central Collection Services collections performed for political subdivisions of the State.

1.05__ Definitions

.01 Administrator ~~The administrator~~ means the manager of the Central Collection Service Services.

.02 Claimant State Agency ~~All state agencies~~ Entity(ies) – means all State Agencies or Participating Institution of Higher Education with respect to collection of debts due the State under 24-30-202.4, C.R.S.

~~the State under 24-30-202.4, CRS~~

~~Claims in the Process of Collection ~~Any~~ means debts in the possession of the State~~

~~Controller Central Collection Services for ninety (90) less than one hundred eighty (180) days, debts on which payments are being made or on~~

.03 which payments have been promised, and/or debts on which suit has been brought filed.

.04 Compromise – means absolving a debtor of responsibility for payment of an obligation to the State in exchange for value received by the State that is less than the account receivable balance owed. Compromise results in removal of a part or all of an account receivable balance from the general ledger and related subsidiary ledgers of the Claimant State Entity. Compromise results in termination of collection efforts for the portion or all of the account receivable balance subject to the negotiated compromise. Compare to Release and Write-off.

~~Debt ~~Any~~ means any liquidated sum due and owing any state agency-Participating Entity, which has accrued~~

~~_ through contract, subrogation, tort, or operation of law regardless of whether there~~

.05 is an outstanding judgment for that sum.

Debtor ~~-Any-~~ means any individual, corporation, or business owing money to or having a delinquent account with any ~~state agency-Participating Entity,~~ whose obligation has not been adjudicated, satisfied by court order, set aside by court order, or discharged in

.06 bankruptcy.

.07 Delinquent Account – means a debt that is past due and for which no payment plan has been established.

.08 Due Date – means the date established for payment according to the terms of the agreement or levy for the goods, services, fines, or monies loaned.

.09 Offset – means the interception of a State (or applicable Federal) payment that would otherwise be paid to a debtor but instead is paid to a Participating Entity (or the Federal government) to satisfy part or all of a debtor's obligation to the State (or the federal government). Includes without limitation Vendor offset, Tax offset, Gaming offset, Lottery offset, Federal TOPS offset.

.10 Past Due ~~-The-~~ means a debt that has not been paid to the State by close of business on the due date.

.11 Participating Entity(ies) – includes Claimant ~~State Controller--The~~Entities and Participating Political Subdivisions

.12 Participating Institution of Higher Education – means a ~~State Controller~~Institution of Higher Education where the institution's governing board has not elected to promulgate rules and regulations as authorized in 23-5-113, C.R.S, for the Institution to collect loans or ~~designee~~-other obligations owed to the Institution. For those Institutions of Higher Education who have promulgated rules and regulations but continue to assign accounts to Central Collection Services or allow Central Collection Services to retain previously assigned accounts, these A/R Rules apply to only the accounts assigned to Central Collections Services.

.13 Participating Political Subdivision – means an entity that is legally separate from the State that is a political subdivision of the State and has entered an agreement with State Central Collection Services for accounts receivable collection services.

.14 Release – means absolving a debtor of all responsibility for payment of an obligation to the State with no consideration received by the State. Release results in removal of an account receivable balance from the general ledger and all subsidiary ledgers of the Claimant State Entity, and it terminates all collection efforts. Compare to Compromise and Write-off.

.15 Tax Refund - ~~The State of~~ means a refund on taxes to the taxpayer when the tax liability is less than the taxes paid as determined by the Colorado ~~tax refund which the~~ Department of Revenue,

~~determines to be due any individual taxpayer.~~

.16 Vendor – any entity being paid state funds from the State’s central Financial Reporting system.

.17 Vendor Offset – means the interception of a payment that would otherwise be paid to a State vendor but instead is paid to a Claimant State Entity to satisfy part or all of the vendor’s obligation to the State.

.18 Write-off – means removing an account receivable balance from the general ledger accounts of a State agency or Institution of Higher Education. The account shall remain as a record in the State agency or Institution of Higher Education subsidiary accounts receivable system. Write-off does not absolve the debtor of responsibility for the obligation or terminate collection efforts by the State. Write-off shall only be approved by the State Controller or his/her delegate. Compare to Compromise and Release.

1.20 POLICY RULE

~~It is the policy of the~~The State of Colorado ~~to establish collection procedures to effectively and will maximize~~ timely ~~collect all and efficient collection of~~ moneys due the State.

1.30 STATE AGENCY PROCEDURES

1.31-2.00 REQUIREMENTS OF STATE AGENCIES AND PARTICIPATING INSTITUTIONS OF HIGHER EDUCATION

2.10 Designated Responsibility

Each ~~state agency~~Participating Entity shall designate an individual or position responsible for the ~~collection and referral of their~~ accounts receivable, ~~and as a primary point of contact for Central Collection Services. A Claimant State Entity’s responsible individual or primary point of contact may initiate requests for write-off, release, or compromise of accounts, but the request must be approved by the Claimant State Entity controller or highest financial officer per Section 4.00 of this rule.~~

1.32-2.20 Accounting Procedure Requirements

~~Timeliness of billing~~Timely billings and collection follow-up procedures are essential ~~to~~for an ~~effective~~ accounts receivable collection program. Accounting procedures ~~for state~~at Claimant State Entities shall provide for:

~~agencies shall provide for:~~

~~.01 Billing for goods or services rendered as quickly as is possible.~~

.01 Prompt billing of amounts due the State and shall include interim billings when the Claimant State Entity controller determines the interim amount is material, the interim billing is allowed by the agreement with the debtor, and the State's benefit from interim billing exceeds the cost of the interim billing.

.02- A monthly "aged" trial balance, or aging report, of all accounts receivable which that agrees to the balances in the subsidiary ledger and when reduced by accounts written-off to date equals the

control account in the General Ledger. This record identifiesThe aging report shall identify those accounts

receivable requiring that required referral to Central Collection Services during the month or required other follow up procedures. The State Controller shall establish

guidelines for aging.03 The State Controller's Fiscal Procedures Manual provides additional guidance on recording, allowancing, and reporting accounts receivable.

1.33-2.30 Determination of Charge Rates**Payment Plan**

~~The charges for goods, services rendered, or moneys loaned by state agencies are generally divided into two classes:~~

~~.01 Those~~At the earliest feasible time after an account becomes past due, the Claimant State Entity levying fines or providing goods, services ~~rendered~~, or moneys loaned ~~or offered by state~~

~~agencies at a designated amount to all individuals without regard to the financial status of the recipient.~~

~~.02 Those goods and services rendered for which the amount charged the recipient is based on the recipient's "ability to pay". In this event, the state agency concerned has statutory authority to set schedules of charges based on net income, net assets, and other factors affecting the ability to pay.~~

1.34 Determination of Payment Plan

~~At the earliest feasible time, the state agency furnishing goods, services, or moneys loaned shall establish with the recipient, debtor a definite schedule for repayment of the~~
~~account receivable. The recipient, guardian, responsible party, or cosigner-signer,~~

~~shall clearly understand his obligations under the plan and the~~ arrangements for

~~repayment shall be reasonable and timely. Once, and the debtor, guardian, responsible party, or signer/co-signer, shall be advised in plain language of his/her obligations under the plan and shall acknowledge his/her obligations in writing. A debtor's failure to comply with the repayment plan is established,~~

~~it forms the basis for the determination of when the account receivable is past due~~

~~and activates the follow-up collection procedures specified in Section 2.50. A Claimant State Entity may not establish a payment plan with a debtor after the requirement for referral of the debt to Central Collection Services. See section 2.60 of this rule.~~

1.35-2.40 Credit Information

~~Basic to any granting of credit is the securing of adequate information to locate~~

~~each debtor in event of default. Thus, the state agency Participating Entity records for each debtor~~

~~should shall include the following information; items of information to the extent they can be obtained with reasonable due diligence:~~

~~.01- Social Security Number and ~~+/~~or Federal Employer Identification Number; ;~~

~~.02- Current home and work address; ;~~

~~.03- Current home and work phone number; ;~~

~~.04- Permanent address; ;~~

~~.05- Date of birth.~~

~~.06 Name and address of nearest relative or guardian not living with debtor; ;~~

~~.06 Date of birth;~~

~~.07-Other credit~~ Credit references such as banks, credit cards, and retail stores; ~~and~~.

~~.08-___~~ Any other relevant information, ~~as determined by the state agency.~~

1.36-2.50 Follow-up Procedures Requirements

~~A timely, systematic set of procedures for follow-up action is essential in the~~

~~collection process. Once~~ When an account receivable is determined to be past due, ~~these~~

~~procedures~~ the following actions should be initiated and systematically followed until the debt is thirty

~~(30) days past due and no further~~ continue during the time for which any extension of the referral has been granted ~~by the state;~~

~~agency with the approval of the State Controller.~~

~~No one set of procedures is effective for collecting all types of accounts. However,~~

~~the following procedures are recommended for use by state agencies:~~

~~.01 Telephone calls.~~

~~.01~~ Ongoing telephone calls, e-mails, and any other commonly used communication media.

~~.02-___~~ At least one delinquency letter/collection letter, or ~~if time permits,~~ a set of

~~delinquency~~ letters ~~and~~ collection letters starting with a ~~polite reminder to a~~ final reminder and progressing to a final demand letter. Each letter shall describe the applicable appeal or dispute process available to the debtor including any deadlines for submitting or filing the appeal or dispute. The final demand letter shall state that the account has been reduced to final agency determination by the completion of due process for the debtor, and the account will be referred to State Central Collection Services if not paid by the date set in the final demand letter.

~~demand" letter;~~ A record Records shall be maintained ~~indicating~~ documenting the ~~action~~ actions taken, ~~the~~ person performing the ~~action~~ actions, and ~~date of the action.~~ This record may be coded notations on a ledger card or such other procedure as to leave a clear indication dates of the ~~actions taken.~~

1.37-2.60 Debts Referred to Central Collection Services

A Claimant ~~State Controller~~

~~A state agency~~Entity shall, except where exempt by statute, refer all appropriate debts to ~~the State Controller-Central Collection Services~~ for collection when the

~~debt is thirty (30) days past due.~~ The State Controller may grant an a standard extension of up to the

60 days in addition to the 30 day referral requirement based upon a documented request and justified need/justification provided by the state

agency. ~~Extension~~Claimant State Entity. When deemed to be in the best interest of the State, the State Controller may approve a longer or indefinite extension. All extensions shall be considered on an individual basis and granted only if

the State Controller determines ~~the extension~~ to be in the best interest of the State. - All Participating Entities shall certify that all debts assigned to Central Collection Services are valid debts, that the balances are accurate and that the debtor has been afforded due process prior to assignment.

A debt may

~~be referred~~ to Central Collection Services earlier than 30 days past due if the following conditions exist:

~~.01-~~ 01- The ~~state agency~~Claimant State Entity has made a valid/good faith effort to collect the debt without success.

~~This effort shall indicate the minimal effort of~~ include at a minimum sending written requests for payment

~~and attempts to contact the debtor by phone~~ telephone, e-mail, and other commonly used communication media.

~~.02-.02~~ The debtor has been afforded due process by notification of appeal rights.

~~.03~~ 03 There are no unsettled differences/unresolved disagreements between the ~~state agency~~Claimant State Entity and the debtor

~~as to the validity of charges~~ which make up/comprising the debt.

~~.03-.04~~ The state agency has lost-Claimant State Entity is unable to contact ~~with~~ the debtor ~~(letters returned with no~~ after good faith efforts.

~~known forwarding address, etc.). The debt is referable immediately for collection.~~

~~When a debt is referred to the State Controller for collection, the state agency shall~~

~~retain it on their books pending final disposition by the State Controller.~~

4.38-When a debt is referred to Central Collection Services for collection, the Claimant State Entity shall retain sufficient documentation to support the account until the debt is paid in full, cancelled, compromised or released by Central Collection Services. When a debt is compromised or released by

Central Collection Services, CCS shall notify the Field Accounting Services Team to ensure the Office of the State Controller is aware of the related write-off for financial reporting purposes.

2.70 Reports From Abolished Claimant State AgenciesEntities

~~Should a state agency be~~ a Claimant State Entity is abolished or its activities transferred to another agency or department by legislative action or by an Executive Order,

the individual in the state agencyClaimant State Entity responsible for collection of the accounts

receivable shall furnish a recordprovide records of all outstanding account balances, ~~thirty (30) to Central Collection Services and the transferee entity 30 days prior to the abolishment or transfer of the activity.~~

~~days prior to the dissolution. This is necessary to maintain proper accountability for~~

~~all accounts receivable of the abolished state agency.~~

1.403.00 REQUIREMENTS OF CENTRAL COLLECTION SERVICE PROCEDURES SERVICES

~~The Central Collection Service shall have a period not to exceed ninety (90) days~~

~~after receipt of the debt to use all State collection capabilities available to collect the~~

~~debt.~~

When a ~~state agency~~Participating Entity refers a debt to ~~the~~Central Collection Services for collection, Central Collection ~~Service for collection,~~Services shall:

~~the unit will:~~

.01- Determine additional procedures to be followed to collect the debt.

.02- Contact the debtor by letter, and at its discretion by telephone, and/or personal visit and to evaluate the

collection potential considering the financial circumstances of the debtor. ThisThe evaluation may

require verification with third parties, such as employers, other creditors, relatives, personal references, or other agencies, as well as using other resources available to Central Collection Services.

~~personal references, or other agencies.~~

~~.03 Every effort should be made~~ Attempt to ~~work out~~negotiate a reasonable payment arrangement

~~with the debtor. However, if~~ the debtor has the ability to pay but refuses to do so,

~~the unit shall take whatever~~ legal measures are necessary to collect the debt. These

~~measures may include:~~

~~A. A. Civil~~ Referral to Private Counsel for civil suit to obtain judgment;

~~B. B. Garnishment of wages and/or~~ bank accounts, file;

Filing of a judgment lien on

~~C. real property;~~ or levy

~~D. Levy on any~~ attachable asset;

~~C. Adjust the debt where it appears advantageous in order.~~ .04 Submit the account to liquidate

~~the debt after consultation with the creditor state agency.~~

~~.04 Confer with the State~~ Department of Revenue ~~to determine if the debtor is~~

~~due any tax for possible offset of State Tax refunds against which the debt may be offset., Gaming~~
~~winnings, or Lottery winnings.~~

~~.05-.05~~ Submit the account to the Vendor Offset program in the Office of the State Controller for possible
offset of Vendor payments.

.06 For those federal, interstate or intrastate offset programs in which Central Collections is a legally
authorized participant, determine whether the debt qualifies for certification and referral to the
federal agency responsible for offset of federal payments and to any other intra or interstate offset
programs legally adopted by Central Collection Services. If the debtor is offset by the federal
agency or other offset partners, and the debtor appeals the offset and the Director of the Division
of Finance and Procurement or the State Controller or Administrative Law Judge, as applicable,
upholds the debtor's appeal, Central Collection Services will refund the amount of the offset and
any costs associated with the offset, and then cancel from or reduce the subsequent remittance
to the Claimant State Entity by that amount

.07 Report monthly to Participating Entities on any ~~all~~ collections received for the state agency to
whom the on debts referred to Central Collection Services.

~~debt is owed.~~

~~4.44 Central Collection Services shall use all available internal State collection capabilities within 180 days after referral of the debt to collect on the account. After 180 days, if no payments are promised or received, Central Collection Services shall assign the debt to Private Counsel or to Private Collection Agencies. See Section 3.20.~~

3.10 Debt Offset Against Taxpayer's Tax Refund

~~.01 Debts Referred~~ The following debts shall be referred for Offset: ~~as follows:~~

- ~~A. All Participating Entity debts shall be submitted to Central Collection Services for collection through offset of payments to State Vendors.~~
- ~~B. All Participating Entity debts shall be submitted to the State Department of Revenue for collection through offset of payments of Tax refunds, Gaming winnings, and Lottery winnings.~~

~~Controller for collection through offset.~~

~~.02 Procedure for Offset: The An Institution of Higher Education not participating in Central Collection Service shall Services collection activities may submit a tape~~

~~transfer as specified above its debts to the Department of Revenue for cross-matching with~~

~~the income tax accounting file. The Central Collections Services for offset against State Controller shall certify the amount of~~

- ~~C. debts due the State Tax refund payments, Gaming winnings, and subject to Lottery winnings for offset after the completion of the against payments to State Vendors.~~

~~The fee for debt offset~~

~~procedure, and hearing and appeal if applicable, set forth in this rule. The debtor~~

- ~~D. may arrange with the only programs shall be at 25% of the current Central Collection Service for payment of the debt in full Services commission rate.~~

~~before the offset is made. However, the assigning state agency shall not enter into~~

~~any agreement with the debtor for payment of the debt after the offset is initiated.~~

~~.03 Notification of Intent to Offset: The Central Collection Service shall~~ _____

~~.02 Central Collection Services and any Institution of Higher Education not participating in collection by Central Collection Services shall make a good faith effort to notify~~

~~the debtor in writing of the State's intent to offset. Such notice shall set forth the~~

~~name of the debtor, the manner in which the debt arose, the amount of the claimed~~

~~debt, and the intention to offset any payment due the tax refund against debtor to reduce or satisfy the debt. The notice shall describe any hearing process available to the debtor regarding the offset.~~

~~fully describe the manner in which the debtor/taxpayer may .03 Taxpayers subject to offset of Tax refunds, Gaming winnings or Lottery winnings for debts due the State may request a hearing.~~

~~.04 Right of an Administrative Hearing: The taxpayer. Such notification shall include information on the debtor's right to object to the offset and to request an Administrative Hearing pursuant to the rules of the Department of Personnel & Administration. The debtor shall be required to submit a written notice of~~

~~the intent to contest the offset request for hearing. Such written notice of intent to contest request for hearing shall be filed~~

~~with the Central Collection Service Services within thirty (30) days of the postmark on the~~

~~notification to that an offset has occurred or will occur. If a hearing is requested by the taxpayer, it debtor, the hearing shall be held~~

~~within thirty (30) calendar days from after Central Collection Services' receipt of such request. Failure to apply for~~

~~request such a hearing in writing, within the thirty (30) day period, shall be deemed a waiver of~~

~~the opportunity to contest the offset.~~

~~.05 Apportionment of Refund: In case a joint return has been filed in which~~

~~only one person is the debtor, the Department of Revenue shall notify the taxpayer~~

~~that the non-debtor spouse may file a claim for payment. Based upon such claim,~~

~~the Department of Revenue shall issue a refund to the non-debtor spouse. For such~~

~~computation, the Department of Revenue shall apportion the overpayment based on~~

~~the respective shares of the Colorado adjusted income.~~

~~.06 Disposition of Proceeds Collected: If a debtor is determined by the~~

~~Department of Revenue to be entitled to a refund, the Department of Revenue shall transfer an amount equal to the refund up to the amount owed to the State Treasury for disbursement by the State Controller. No refund shall be paid to a debtor nor shall any refund be paid to the State Treasurer for disbursement until thirty (30) days has elapsed from the date of notice to offset. If during the 30-day period the Central Collection Service receives a notice of intent to contest, the administrator shall inform the Department of Revenue which shall thereafter hold the refund until the disposition has been resolved by settlement, hearing, or court order.~~

~~.07 Hearing Procedure: .04~~ Upon receipt of ~~notice of intent to contest the offset, the administrator~~ a debtor's request for a hearing, the Central Collections Services Administrator shall schedule a hearing to be held within ~~thirty (30)~~ days from the ~~time of filing date the request was received.~~ This hearing shall determine if the offset is proper ~~and the claim is~~ valid.

If the State cannot schedule a hearing within ~~thirty (30)~~ days from the date a request ~~is filed, the account received, Central Collection Services shall be deleted from final submission on the refund any funds~~ offset ~~take so that the refund can be automatically returned to the taxpayer. Return Payment to the debtor of this sum~~ the offset amount shall

~~not constitute a compromise, release, or partial or full waiver~~ enby the ~~part~~ State of the ~~State~~ for remaining balance of the debt.

The ~~administrator of the~~ Central Collection ~~Service~~ Services Administrator shall have the authority as set forth in 24-4-105, CRS, C.R.S., to schedule and hold hearings. The ~~administrator~~ Hearing Officer shall ~~prepare, file~~ ensure that hearing decisions are prepared, filed, and ~~serve upon each provided to the debtor, within 30 days after the decision~~ hearing. In the case of tax offset hearings, in the absence of any appeal to the Director of the Division of Finance and Procurement or to the State Controller within ~~fifteen (15)~~ days after service of the decision of the

~~administrator Hearing Officer~~, unless extended by the Director of the Division of Finance and Procurement or the State Controller, such decision of the

~~administrator Hearing Officer~~ shall thereupon become the decision of the ~~State Controller. If there~~Director of the Division of Finance and Procurement or the State Controller. Any offset hearing appeal shall be to the Director of the Division of Finance and Procurement or the State Controller based on the thresholds in Section 4.20.02, 4.20.03, 4.30.02, and 4.30.03 for potential release or compromise of the debt that could be required by the appeal decision.

~~is reasonable doubt of the validity of the debt, the administrator shall recommend~~

~~write-off of the debt, deleting the account from the final submission tape to the~~

~~Department of Revenue.~~

~~Upon~~In the case of Tax offset Administrative Hearings, upon receipt of a timely appeal of the ~~administrator's hearing officer's~~ initial decision, the ~~State~~

Director of the Division of Finance and Procurement or the State Controller shall enter a decision based on a review of the ~~administrator's hearing officer's~~ written

~~decision along with any additional documentation submitted by the taxpayer. The~~

~~State~~ or by Central Collection Services on behalf of the Claimant State Agency. The Director of the Division of Finance and Procurement or the State Controller shall have ~~thirty (30)~~ days from the date of the appeal to render ~~his~~

~~a~~ decision. If the Director of the Division of Finance and Procurement or the State Controller fails to ~~comply~~respond within ~~this~~the required time frame, the ~~refund~~

Department of Personnel & Administration through the Division of Finance and Procurement or the Office of the State Controller shall automatically be returned pay the offset amount to the ~~taxpayer debtor~~. If the Director of the Division of Finance and Procurement or the State Controller rules in favor of the debtor, Central Collection Services shall refund the offset amount to the debtor and cancel from or reduce the subsequent remittance to the Claimant State Entity. However, return of this sum shall

~~not~~ constitute a compromise, release, or partial or full waiver ~~on the part of by~~ the State of the debt ~~due~~.

The ~~decision~~appeal decisions of the Director of the Division of Finance and Procurement or the State Controller shall be final unless appealed through the

~~Colorado State Court System in accordance with applicable law.~~

~~.08 Final Disposition and Notice of Offset: Upon receipt by~~ If the debtor is successful in any Tax offset Administrative Hearing, Central

~~Collection Service of a debt from~~ has 15 days to appeal the ~~claimant state agency, the~~decision. Central Collection

~~Service Services shall make final disposition send a copy of the initial decision in favor of the offset by transferring the net proceeds~~

~~collected for credit or payment and refund any remaining balance due the debtor.~~

~~Upon final determination of amount debtor and the debtor's file to the Office of the debt due and owing by means of Attorney General (OAG) so that the~~

~~hearing, or waiver of hearing as provided by Section 1.41.04 of these rules, the~~

~~OAG can advise Central Collection Service shall initiate Services whether to appeal the decision. If the transfer of funds to be applied towards~~

~~the debtor's obligation.~~

~~Upon transfer of funds to credit the debtor's account, the OAG advises Central Collection Service~~

~~shall notify Services not to appeal the debtor, in writing, claim, the outcome of the final disposition of the Tax offset. Such notice Administrative Hearing shall be final. If the OAG advises Central Collection Services to appeal the claim, Central Collections Services may proceed with the appeal.~~

~~shall include a final accounting In the case of the tax refund which was Offsets for Gaming winnings, if it is found the offset, including the~~

~~amount of was incorrect, the tax refund to which full balance intercepted will be refunded to the debtor was entitled prior to and any costs of such offset and shall be borne by either Central Collection Services or the~~

~~amount of agency receiving the debt due and owing offset payment, depending on the debtor by reason for the refund. Department of Revenue. If~~

~~there is an outstanding balance due and/or the State after the offset, the debtor shall be~~

~~notified in writing. A partial offset is gaming licensee will not a compromise of the total amount due. be responsible for any fees or charges added.~~

~~.09 Priorities in Claims to Offset: Priority in multiple claims to refunds allowed~~

~~to be offset.05 Upon expiration of the period allowed for a hearing request and absent such a request, Central Collection Services shall ensure the funds are posted accurately to the debtor's account.~~

~~Upon final determination at Administrative Hearing or related appeal of the propriety of the offset, Central Collection Services shall ensure the funds are posted accurately to the debtor's account.~~

~~Payment to the Claimant State Entity of the offset amount shall not constitute a compromise, release, or partial or full waiver by the State of the remaining balance of the debt.~~

.06 The priority of claims is set in statute for each type of offset. Multiple Claimant State Entity claims certified to State payers by Central Collection Services shall be paid in the sequence in which the Claimant State Entity referred the debt to Central Collection Services for collection, or in the order deemed appropriate by the Central Collection Services Administrator.

.07 If a debtor is successful in appeal of an Administrative Hearing, Central Collection Services and the Claimant State Entity shall request release or compromise of the debt subject to the administrative decision, if so directed by the appeal decision, to ensure the debtor is not subjected to recurring offset for a balance already adjudicated.

.08 Central Collection Services shall take all actions feasible to minimize duplicate offsets of the same debtor balance. All duplicate offsets that occur shall be promptly refunded by Central Collection Services and cancelled or reduced from the subsequent remittance to the claimant state entity.

3.20 Debts Referred to Private Counsel and Private Collection Agencies

.01 All Claimant State Entity debts which are not claims in process of collection, shall be in the order in time which a state agency has referred the debt

to the Central Collection Service for collection.

1.50 DEBTS REFERRED TO PRIVATE COLLECTION AGENCIES

.01 No later than ninety (90) days after receipt by the State Controller shall all

debts which are not claims in process of collection be legally assigned to private

counsel or private collection agencies no later than 180 days after being received by Central Collection Services to Private Counsel or Private Collection Agencies that have been approved by the State Director of the Division of Finance and Procurement.

Controller.

.02- The private counsel Private Counsel or private collection agencies Private Collection Agencies utilized to collect debts

due the State shall be selected through competition pursuant to the provisions of the

procurement State Procurement Code, Articles Article 101 to 112 of Title 23, CRS. Criteria for the selection

of private counsel Private Counsel or private collection agencies Private Collection Agencies shall be developed by the executive

director Director of the Department Division of Personnel Finance and Procurement in consultation with the State Controller,

affected state agencies, and the private collection community.

~~.03 Before utilizing private counsel or private collection agencies to collect a~~ .03 The amount remitted to Private Counsel or to a Private Collection Agency for

~~debt, the State Controller shall determine that the debt is a liquidated claim due the State or a state agency.~~

~~.04 The amount retained by private counsel or by a private collection agency for~~ collection of a debt shall be at a negotiated rate within the parameters of 24-30-202.4, C.R.S., and the State Procurement Code.

1.51-3.30 Remittance of Proceeds Recovered From Debts and Reporting Requirements

Private ~~counsel~~ Counsel and ~~private collection agencies utilized to collect State~~ Private Collection Agencies collecting Participating Entity debt shall

~~account for and remit to the State Controller the net~~ Central Collection Services the gross proceeds recovered on such

~~debts at least once every thirty (30) days. The Central~~ Private Counsel and Private Collection Service Agencies shall ~~be~~

~~provided~~ provide to Central Collection Services a written report, ~~by for the~~ month and ~~for the~~ fiscal year ~~to~~ date, of collection activities

~~including the following information with respect to each current collection matter~~ currently assigned account:

.01- _____ The identification number ~~and dollar value~~ of ~~each~~ the debt ~~to be collected~~, the name of the

~~debtor, the type of debt, the state agency from which~~ Participating Entity owning the debt ~~was derived,~~ and, the

~~month in which~~ the debt was ~~received~~ referred to Central Collection Services for collection, ~~and the dollar amount of the debt to be collected;~~

.02- _____ All amounts actually collected ~~on each debt, or a statement that the debt was,~~ the amount the debt was adjusted at the request of Central Collection Services, and an indicator of whether or not the debt is deemed collectible;

~~adjusted or that a debt is not collectible, if such is .03~~ If applicable, the case.

~~.03~~ The date any collection lawsuit was filed ~~for collection~~, and the date that was

~~obtained against the debtor. Prior approval shall be obtained by the State~~

~~Controller, in consultation with the creditor state agency, before (including any legal action is relevant information concerning the judgment); and~~

~~filed.~~

~~.04~~ Any other individual account reports deemed necessary by Central Collection Services.

In addition, Private Counsel and Private Collection Agencies shall provide statistics for all assigned accounts including:

.05 The total for all account balances assigned, the total for all collections in the reporting period, the total for all cancelled amounts in the reporting period and the total commission charged; and

.06 The average ~~total~~ debt balance of all accounts, the average dollar amount collected;

for all accounts, the ~~recovery rate, and commission~~ expressed as a percentage and amount. All figures shall be related, the average commission, and the commission expressed as a percentage; and

~~to~~ .07 For each of the items in Sections 3.30.05 and 3.30.06 above, a report categorized by the month in which the debt was received.

~~.05 Other reports required by the referred to Central Collection ~~Service~~ Services.~~

~~1.52 Separate Trust Account~~

~~Every private counsel and private collection agency shall establish a separate trust~~

~~account in the name of and within the State of Colorado in which all moneys due~~

~~the State shall be deposited and maintained until remitted to the State.~~

1.53-3.40 Assignment of Debts

All debts assigned by Central Collection Services to ~~private counsel~~ Private Counsel or ~~private collection agencies~~ Private Collection Agencies for collection ~~by~~

~~the State Controller~~ are subject to the terms and conditions set out in this rule.

.01- ~~___~~ A ~~private collection agency~~ Private Collection Agency which has ~~been assigned~~ accepted a debt for collection;

~~_~~ shall; at its own expense employ legal counsel to ~~handle~~ pursue litigation necessary to

~~_~~ collect the debt.

~~.02 If litigation is filed, all costs associated with the litigation are the sole responsibility of the private counsel and / or private collection agency filing the litigation.~~

.02 Participating Entity approval is required, in writing, prior to initiation of any litigation. If litigation is filed, all costs, except for incidental expenses, associated with the litigation are the sole responsibility of the Private Counsel and/or Private Collection Agency filing the litigation. Incidental expenses paid by Private Counsel will be added to the debtor's account balance and will be reimbursed to Private Counsel by Central Collection Services the month following the month in which the expense is incurred. Any funds collected on the account will first reduce incidental expenses posted to the account. If the account is subsequently cancelled by the Participating Entity, the incidental expenses not yet collected from the debtor will be billed to the Participating Entity that cancelled the account.

.03- ~~___~~ A ~~private counsel~~ Private Counsel or ~~private collection agency~~ Private Collection Agency which has been assigned a

~~_~~ debt for collection shall not ~~adjust~~ compromise or ~~settle~~ release any debt so assigned without prior

~~_~~ approval of the Originating Agency, the Director of the Division of Finance and Procurement or the State Controller ~~(through the Central Collection Service), and State.~~

.04 Private Counsel or Private Collection Agencies shall refer to the Department of Law all requests by a Claimant State Entity for legal advice on questions of practice, policy, and procedure related to the legal representation of the Claimant State Entity and shall not represent the State of Colorado in any litigation without express authorization to do so by the Office of the Attorney General. Central Collection Services shall be notified within three working days of any threatened or actual legal action naming the State of Colorado or any of its State Agencies, institutions, employees, or officers as a party to the action.

3.50 Restrictions on Private Counsel and Collection Agency Contracts

Any contract awarded to Private Counsel, Private Collection Agencies or to any Private Counsel retained by the State of Colorado shall require that the individual or firm remain licensed and in good standing under the respective occupational licensing statutes and/or regulation during the term of the contract. Such contract shall require that a Private Counsel or Private Collection Agency shall at all times act in compliance with the provisions of the "Colorado Fair Debt Collection Practices Act", Article 14 of Title 12, C.R.S., and in compliance with any rules or regulations promulgated by the Executive Director of the Department of Personnel.

Every contract pursuant to this rule shall provide that Private Counsel or the Private Collection Agency, its employees, agents, and legal counsel utilized by the Private Collection Agency, shall not violate any provisions of the following:

- .01 The "Fair Debt Collection Practices Act", Public Law 95-109, 15 U.S.C. 1691, et seq., and for this purpose "special collection counsel" and legal counsel utilized by a collection agency shall be deemed to be a "debt collector",
- .02 Chapter 2 of the rules of the State Collection Agency Board, and for this purpose, special collection counsel shall be deemed to be a "debt collector" and a "licensee",
- .03 Any requirement of State or Federal law which is applicable to or has been incorporated in any agreement which created the debt to be collected, and
- .04 Any assignment or transfer of any debt under these rules may be revoked at any time by Central Collection Services without cause.

In addition, any contract for the collection of Participating Entity debts shall be awarded according to the provisions of the State Procurement Code, Articles 101 to 112 of Title 23, C.R.S. After contract expiration, Private Counsel or Private Collection Agencies, by contract, may be allowed to receive ongoing payments on debts for which payments have been previously received by the Private Counsel or Private Collection Agency, unless or until the debt is paid in full or recalled by Central Collection Services. Such collections after expiration of the contract shall be remitted to the State and the Private Counsel or Private Collection Agency shall be compensated as was previously required prior to the expiration of the contract.

4.00 WRITE-OFF, RELEASE, AND COMPROMISE

Every write-off, release, or compromise of an account receivable must have as its initial step a recommendation for and approval of write-off, release, or compromise by the Controller or highest financial officer of the Claimant State Entity.

4.10 Write-off of Accounts Receivable

Write-off of accounts receivable are defined in Section 1.05.18 of this Rule and affects only financial reporting. The criteria for writing-off of accounts receivable are:

- .01 Debts of \$50 or less may be written off after the Claimant State Entity has completed its 30 day collection effort and after Central Collection Services has completed one cycle of tax offset procedures without results. These accounts may be written off without approval from Central Collection Service or consent of the State Controller. The procedure for writing off debts of \$50 or less is to notify Central Collection Services and the Field Accounting Services Team in the Office of the State Controller in writing, at least annually at fiscal year-end close or more frequently at the Claimant State Entity's discretion, of the total amount and number of accounts written off under this procedure. A detailed listing of each account and dollar amount shall be maintained by the Claimant State Entity for audit purposes.
- .02 Accounts greater than \$50 shall only be written off when they have been determined by Central Collection Services to be not collectible, and with the approval of the State Controller or delegate. A Claimant State Entity's request sent to Central Collections for such approval shall include:
 - A. The number of accounts to be written off;~~Treasurer in consultation with the creditor state agency.~~

- B. The total dollar amount of the accounts;
- C. For each account a listing of the debtor, the amount, and a brief statement of why the Claimant State Entity believes the debt is not collectible; and
- D. A statement by the Claimant State Entity's Controller that the accounts are deemed not material to the Claimant State Entity's financial records or financial statements and have been approved for write-off by the Claimant State Entity Controller.

At the end of each calendar quarter or more frequently at their discretion, Central Collections shall notify the Claimant State Entities of the accounts and amounts in excess of \$50 that were approved for write-off during each calendar quarter.

4.20 Release of Accounts Receivable

Release of accounts receivable are defined in Section 1.05.14 of this Rule. Release shall occur under the following conditions:

- .01 For account balances of \$50 or less, upon a written personal delegation to the Central Collection Services Administrator by the State Controller and by the State Treasurer, the Central Collection Services Administrator may release the account receivable recommended and approved for release by the Claimant State Entity if the Central Collection Services Administrator has documented in writing a determination that collection of the account is highly unlikely and a determination that tax and other concurrent offset processes are not likely to result in an intercept.
- .02 For account balances of \$2,500 or less, upon a written personal delegation to the Director of the Division of Finance and Procurement by the State Controller and by the State Treasurer, the Director of the Division of Finance and Procurement, or the State Controller in the extended absence of the Director of the Division of Finance and Procurement, may release an account receivable recommended and approved for release by the Claimant State Entity if the Director of the Division of Finance and Procurement has documented in writing a determination that the collection of the account is highly unlikely and a determination that tax and other concurrent offset processes are not likely to result in an intercept.
- .03 For account balances greater than \$2,500, approval for release shall be obtained in writing from the State Controller and the State Treasurer. The request for approval shall be prepared by the Central Collection Services Administrator and shall document a recommendation and approval for release by the Claimant State Entity; the components of the current balance; the collection efforts and results to date; the financial status of the debtor; an assessment of collectability including viability of offset procedures; and any other information useful in determining the probability of future collections and the cost of future collections as compared to the likely amount of collection.

4.30 Compromise of Accounts Receivable

Compromise of accounts receivable are defined in Section 1.05.04 ~~Private~~ of this Rule. Compromise shall occur under the following conditions:

- .01 For compromises that reduce an account balance by \$50 or less, upon a written personal delegation to the Central Collection Services Administrator by the State Controller and by the State Treasurer, the Central Collection Services Administrator may compromise the account receivable recommended and approved for compromise by the Claimant State Entity if the Central Collection Services Administrator has documented in writing a determination that ~~collection counsel or private~~ of the account is highly unlikely and a determination that tax and other concurrent offset processes are not likely to result in an intercept.

.02 For compromises that reduce an account balance by \$2,500 or less, upon a written personal delegation to the Director of the Division of Finance and Procurement by the State Controller and by the State Treasurer, the Director of the Division of Finance and Procurement, or the State Controller in the extended absence of the Director of the Division of Finance and Procurement, may compromise an account receivable recommended and approved for compromise by the Claimant State Entity if the Director of the Division of Finance and Procurement has documented in writing a determination that tax and other concurrent offset processes are not likely to result in an intercept.

.03 For compromises that reduce an account balance by more than \$2,500, approval for compromise shall be obtained in writing from the State Controller and the State Treasurer. The request for approval shall be prepared by the Central Collection Services Administrator and shall document a recommendation and approval for compromise by the Claimant State Entity; the components of the current balance; the collection agencies shall refer to the efforts and results to date; the financial status of the debtor; an assessment of collectability including viability of offset procedures; and any other information useful in determining the probability of future collections and the cost of future collections as compared to the likely amount of collection.

~~Department of Law all requests by state agencies for legal advice on questions of practice, policy, and procedure related to the legal representation of the state agency and shall not represent the State of Colorado in any litigation. The Central Collection Service shall be notified within three (3) working days of any threatened or actual legal action naming the State of Colorado or any of its state agencies, institutions, employees, or officers as a party.~~

~~1.54 Further Restrictions on Employment~~

~~Any contract awarded to private counsel, private collection agencies or to any special collection counsel retained by the State of Colorado shall require that the individual or firm remain licensed under the respective occupational licensing statutes or regulation during the term of the contract. Such contract shall require that a private counsel or private collection agency shall at all times act in compliance with the provision of the "Colorado Fair Debt Collection Practices Act", Article 14 of Title 12, CRS, and in compliance with any rules or regulations promulgated by the executive director of the Department of Personnel.~~

~~Every contract pursuant to this rule shall provide that the private collection agency or private counsel, its employees, agents, and legal counsel utilized by the private~~

~~collection agency, private counsel, and special collections counsel, shall not violate any provisions of the following:~~

~~.01 The "Fair Debt Collection Practices Act", Public Law 95-109, 15 U.S.C. 1691, et seq., and for this purpose special collection counsel and legal counsel utilized by a collection agency shall be deemed to be a "debt collector".~~

~~.02 Chapter 2 of the rules of the State Collection Agency Board, and for this purpose, special collection counsel shall be deemed to be a "debt collector" and a "licensee".~~

~~.03 Any requirement of State or Federal law which is applicable to or has been incorporated in any agreement which created the debt which is sought to be collected.~~

~~.04 Any assignment or transfer of any debt under these rules may be revoked at any time by the State Controller without cause.~~

~~In addition, no contract for the collection of State debts shall be awarded for a term in excess of three (3) years. Private collection agencies or private counsel may be allowed to receive payments on debts for which payments have been previously received by the private collection agency or private counsel, unless recalled by the State Controller.~~

~~1.60 WRITE-OFFS~~

~~1.61 Write-off of Accounts Receivable~~

The criteria for writing-off accounts receivable is:

~~.01 Debts of fifty dollars (\$50.00) or less may be written off after the state agency has completed its thirty (30) day collection effort and after the Central Collection Service has completed their tax offset procedure without results. These accounts may be written off without approval from the Central Collection Service or consent of the State Controller and the State Treasurer after they have been returned to the creditor state agency by the Central Collection Service. The procedure for writing off debts of fifty dollars (\$50.00) or less is to notify the Central Collection Service in writing of the total amount and number of the accounts to be written off under this procedure. A detailed listing of each account and dollar amount is to be maintained by the state agency for audit purposes.~~

~~.02 Accounts greater than fifty dollars (\$50.00) shall only be written off when they have been determined by the Central Collection Service to be not collectible, and with the consent of the State Controller and the State Treasurer. A state agency request for such approval shall include:~~

~~A. The number of accounts to be written off;~~

~~B. The dollar amount of such accounts;~~

~~C. For each account, list the debtor, amount of the account, and a brief statement of why the state agency believes it is not collectible;~~

~~D. A statement by the responsible individual in the state agency that, in his opinion, the accounts are not collectible.~~

~~1.62 Agency Approval of Accounts Receivable Write-offs~~

~~Within the state agency, the write-off of accounts receivable shall be approved by:~~

~~.01 The individual responsible for accounts receivable collection, and/or~~

~~.02 The supervisor of the individual responsible for accounts receivable collection or designee.~~

~~.03 The approval of the chief executive officer of a state agency may be required to write off accounts receivable.~~

~~1.63 Collections After Write-off~~

~~After consultation with the creditor state agency, the Central Collection Service, private counsel, and private collection agencies may continue their collection processes even after the state agency has been allowed to write off the debt.~~

~~.04 4.70 Compromises approved by the Central Collection Services Administrator, the Director of the Division of Finance and Procurement, or the State Controller and State Treasurer affect the debtor's obligation only for the amount compromised; the remaining balance of the account shall be due for immediate collection or for scheduled payments as negotiated. The debtor's failure to make immediate or scheduled payments shall result in the re-instatement of the compromised balance and the debtor shall be liable for the account balance prior to the compromise less any payments made since the compromise plus interest as allowed by the account type.~~

~~**4.40 Release and Compromise Reporting**~~

~~The Director of the Division of Finance and Procurement shall report quarterly to the State Controller, the State Treasurer, and the Controller or highest financial officer of the Claimant State Agency the number and the amount of accounts receivable released or compromised by the Central Collection Services Administrator and by the Director of the Division of Finance and Procurement. The State Controller and the State Treasurer shall review the reports to monitor compliance with the delegations to the Central Collection Services Administrator and the Director of the Division of Finance and Procurement.~~

~~**5.00 CHARGES**~~

~~**4.71-5.10 Interest and Cost of Collection**~~

Interest ~~shall~~may be charged and costs of collection shall be added, including allowable administrative costs and attorney

fees, to all debts due ~~the~~to Claimant State Entities as required or permitted by law or agreement with the debtor, including but not limited to ~~section~~5-12-102, CRSC.R.S.

1.72-5.20 Charges to ~~State Agencies~~Participating Entities for Collection Services

~~The~~Central Collection ServiceServices shall ~~charge the state agencies~~add the estimated cost of collection to each account assigned as authorized by 24-30-202.4 C.R.S.

1.80-6.00 DISTRIBUTION OF RECOVERIES

All amounts collected by ~~the~~Central Collection ServiceServices shall be disbursed to the state agencies Participating Entities, net of collection costs and Private Counsel fees in accordance with State statute and as defined by contract with Private Counsel or as awarded by the court.

1.90-7.00 ADMINISTRATIVE HARDSHIP

~~Should any of~~ the provisions of this rule create an undue administrative or financial hardship on any ~~state agency~~Claimant State Entity, a written request for exemption and/or alternative policy treatment shall be submitted by the state agency's chief fiscal officerClaimant State Entity's Chief Fiscal Officer through the state agency's chief executive officerClaimant State Entity's Chief Executive Officer to the executive directorExecutive Director of the Department of Personnel & Administration.