



## TEXAS TECH UNIVERSITY

### Operating Policy and Procedure

#### **OP 62.31: Debt Collection**

**DATE:** June 13, 2023

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to outline the procedures relating to debts owed to the university.

**REVIEW:** This OP will be reviewed in March of odd-numbered years by the Chief Procurement Officer with substantive revisions forwarded through administrative channels to the Senior Vice President for Administration & Finance and Chief Financial Officer.

#### **POLICY/PROCEDURE**

##### **1. Keyword Definitions**

The following are the definitions of keywords used in this OP:

- a. Delinquent – Payment is past due by law or by customary business practice, and all conditions precedent to payment have occurred or been performed
- b. Debtor – Any person or entity liable, or potentially liable, for an obligation owed to the State of Texas or Texas Tech University against whom a claim or demand for payment has been made
- c. Due Diligence – The attention and care expected in carrying out a debt collection program, which is characterized by timely, steady, earnest, and energetic effort
- d. Obligation – A debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant

##### **2. State Regulations**

The Texas attorney general (TAG) has established guidelines in [Texas Administrative Code Rule § 59.2, Collections](#), relating to the process by which state agencies collect delinquent obligations. These guidelines are intended to be general in nature and modifications by departments may be appropriate. Texas Tech University (TTU) must comply with these guidelines.

##### **3. Approval for Extension of Credit**

Only those activities that have been approved in accordance with Section 07.06, *Regents' Rules*, "Credit extension," may sell goods and services on credit. Student loan funds, both federal and institutional, are exempt from this requirement since the collection of debt is the function of this activity.

#### 4. Due Diligence

Due diligence shall be practiced in the collection of debt. The TAG due diligence documentation regulations require the maintenance of:

- a. Copies of all correspondence between TTU and the debtor;
- b. Documentation reflecting attempted contacts with the debtor and the result of such attempts;
- c. A record of all payments made by the debtor and, where practical, copies of any checks tendered as payment;
- d. Current information verifying the debtor's place of business, the residential address, and assets; and
- e. Copies of any document creating the obligation, e.g., promissory note, invoice, etc.

#### 5. Use of Outside Collection Agencies

- a. TTU may not contract with an outside collection agency without the prior written approval of the TAG. Contracts with collection agencies must go through the proper procurement procedures administered by the Procurement Services Office, and the contracts must be reviewed and approved by the TAG.
- b. In addition to the information required by other state laws, all contracts for collection of delinquent obligations must contain or be supported by a proposal containing the following:
  - (1) A description of the obligations to be collected sufficient to enable the attorney general to determine what measures are necessary to attempt to collect the obligation(s);
  - (2) Explicit terms of the basis of any fee or payment for the collection of the obligation(s);
  - (3) A description of the individual accounts to be collected in the following respects:
    - (a) The total number of delinquent accounts;
    - (b) The dollar range;
    - (c) The total dollar amount;
    - (d) A summary of the collection efforts previously made by the agency; and
    - (e) The legal basis of the delinquent obligations to be collected.
- c. Requirements of Proposed Contracts with Private Persons Presented for Attorney General Approval

All contracts for collection of delinquent obligations must contain provisions stating that:

- (1) Litigation on the delinquent account is prohibited unless the private person obtains specific written authorization from the university and the attorney general and complies with the requirements of this rule;
- (2) The person is required to place any funds collected in an interest-bearing account with amounts collected, plus interest, less collections costs, payable to the university on a monthly basis or by direct deposit to the university's account on a weekly basis with the university billing once a month. In either case, a listing of the accounts and amounts collected per account should be submitted to the university upon deposit of the funds;
- (3) The person refers any bankruptcy notice to the university within three working days of receipt;
- (4) The university may recall any account without charge;
- (5) The person may not settle or compromise the account for less than the full amount owed (including collection costs where authorized by statute or terms of the obligation) without written authorization from the university;
- (6) The person is not an agent of the university but is an independent contractor, and providing further that the person will indemnify the university for any loss incurred by his/her violation of state and federal debt collection statutes or by the negligence of the person, his/her employees, or agents;
- (7) Any dispute arising under the contract be submitted to a court of competent jurisdiction in Lubbock, Texas, unless any other venue is statutorily mandated, in which case the specific venue statute will apply, subject to any alternative dispute resolution procedures adopted by the university.

It will then be the responsibility of the Chief Procurement Officer to forward this information to the TAG, with the consent of the Vice Chancellor and General Counsel. The Chief Procurement Officer will notify the requesting department of the TAG's decision and will begin processing the contract documents if approved.