

<b>Volume No. 1—Policies &amp; Procedures</b>	<b>TOPIC NO.</b>	<b>20505</b>
<b>Section No. 20500—Accounts Receivable</b>	<b>TOPIC</b>	<b>ACCOUNTS RECEIVABLE</b>
	<b>DATE</b>	<b>August 2018</b>

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## Overview

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### Introduction

This topic provides guidelines, policies, procedures, and regulations to assist and govern agencies in developing procedures to properly account for, report, manage and collect receivables in accordance with the Virginia Debt Collection Act (Code of Virginia, §§ 2.2-4800 *et seq.*).

The current version of the Accounts Receivable CAPP topic represents a significant revision of prior policies and procedures. Therefore, this Topic should be read in its entirety, and should be widely distributed throughout an agency’s organization to ensure compliance with the requirements stated herein.

The Virginia Debt Collection Act establishes the Commonwealth’s overall policy requiring all agencies and institutions to take "...all appropriate and cost-effective actions to aggressively collect its accounts receivable." Va. Code § 2.2-4800.

The Act establishes the Department of Accounts (DOA) as the primary state agency responsible for accounts receivable oversight, reporting and monitoring. Further, the Act authorizes DOA to promulgate statewide policies and procedures for reporting and collecting accounts receivable amounts.

The Act also establishes the Office of the Attorney General (OAG), Division of Debt Collection, as the primary agency responsible for the provision of legal services regarding past due accounts receivable. The OAG promulgates the necessary policies and procedures pertaining to legal issues and litigation of past-due accounts.

Agencies are responsible for adhering to all requirements established by the OAG, Division of Debt Collection (DDC), including the “Division of Debt Collection’s Collection Procedures,” attached hereto in Appendix A, and the policies and procedures promulgated by DOA.

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**General Policy** The overall policy of the Commonwealth is to take all appropriate and cost effective actions to collect accounts receivable balances aggressively. The objective of the statewide receivables program is to improve the management of, and accounting for, accounts receivable owed to the Commonwealth’s agencies and institutions.

**Limitations:**

In most instances, the Commonwealth is not subject to any period of limitations on the collection of its receivables. (*Code of Virginia*, § 8.01-231). There are, however, important exceptions in the law. For example:

- In 2014, the *Code of Virginia*, § 8.01-243, was amended to impose a five-year statute of limitations on property damage claims brought by the Commonwealth arising from the negligent operation of a motor vehicle. But note, this limitation likely does not apply retroactively to causes of action that accrued prior to the enactment of the amendment.
- The *Code of Virginia*, § 8.01-250, imposes a five-year limitation on filing most tort claims against architects, designers, planners, and builders for injury or damage due to defective or unsafe conditions caused by an improvement to real property. The Commonwealth is subject to this statute and cannot assert its sovereign immunity to avoid a time bar of its claim under the statute.
- Judgements may not be executed after twenty years from their issuance unless an extension is secured from the court before the first twenty years expires. (*Code of Virginia*, § 8.01-251).

Agencies with questions regarding time limitations should contact the DDC.

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### **The Department of Accounts is responsible for:**

- Prescribing accounts receivable policies, procedures, regulations, and guidelines, (Code § 2.2-4802)
- Providing technical assistance to agencies and institutions regarding the accounting for receivables and proper revenue recognition policies,
- Preparing quarterly and annual reports of the Commonwealth's receivables,
- Monitoring and analyzing the receivables of agencies and institutions, (Code § 2.2-4802) and
- Annually reporting those agencies and institutions that are not making satisfactory progress towards implementing the provisions of the Virginia Debt Collection Act (Code § 2.2-4804).

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### **The Office of the Attorney General, Division of Debt Collection is responsible for:**

- Providing all legal services and advice related to the collection of accounts receivable (Code §§ 2.2-518; 2.2-4803),
- Adopting necessary policies and procedures pertaining to all accounts receivable legal matters and the litigation of past-due accounts receivable (Code §§ 2.2-4803, 2.2-4806),
- Enforcing the policies and procedures governing agencies and institutions for the prompt reporting, accounting for, and collecting of past-due accounts receivable (Code §§ 2.2-519, 2.2-4806),
- Annually reporting those agencies and institutions that are not making satisfactory progress towards implementing the provisions of the Virginia Debt Collection Act (Code § 2.2-4804), and
- Approving the compromise or discharge of an accounts receivable by an agency of the Commonwealth (Code § 2.2-514).

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**Agencies and institutions responsibilities include, but are not limited to, the following:**

- Developing systems that are adequate to properly account for and report their receivables,
- Reporting receivables, account age, collection status and funding source to DOA quarterly,
- Developing and implementing policies and procedures that adhere to the collection policies and guidelines established by DOA and the DDC,
- Aggressively collecting its accounts receivable,
- Collecting minimum prescribed information from clients, debtors and payees that can aid in collecting debts,
- Referring all accounts receivables 60 days past due and \$3,000 or more to the DDC for collection unless an exemption applies as addressed in this Topic. For any debts referred to the DDC, the debtor will also be responsible for reasonable attorney fees,
- Notifying the DDC of any direct payment received by an agency/institution on an account that has been referred for collection to the DDC within 30 days of receipt of the funds,
- Ensuring that the DDC receives its contingency fee on collections for all accounts referred to it for collection unless an exception applies as discussed in this Topic,
- Submitting debts to the setoff database at the Department of Taxation in accordance with policies established in this CAPP Topic,
- Contracting with a private collection agency for collection of accounts receivable under \$3,000 that are 60 days past due unless an exemption applies as addressed in this Topic,
- Reporting accounts receivable statistics to DOA quarterly, and
- Complying with all of the policies, procedures, and requirements governing accounts receivables as established by the DOA and the DDC, including, but not limited to, those stated in this Topic.

**The Auditor of Public Accounts is responsible for:**

- Auditing the accounts of every agency handling any state funds (Code § 30-133(A)),
- Auditing for compliance with the requirements and polices governing the reporting, accounting , managing, and collecting accounts receivable as adopted by the Department of Accounts, the DDC, and the Virginia Debt Collection Act (Code § 30-133(I)).

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### Interest, Administrative Costs, Late Fees, Handling Fees and Other Fees

The State Comptroller recommends that agencies charge, collect and account for interest, administrative costs, late fees, handling fees and other applicable fees on past due accounts receivable in accordance with legal requirements and policies promulgated by DOA and the OAG. All should be charged and collected unless prohibited by state statute or federal law or regulation.

### Submission of Debts to the Virginia Debt Setoff Programs

Agencies are required to submit all receivables, including written-off receivables, subsequent to the receivable becoming 30 days past due but prior to the receivable reaching 60 days past due, to the Department of Taxation's debt setoff database.

### Annual Resubmission of Claims to the Virginia Debt Setoff Programs

Claims submitted to the Virginia debt setoff programs do not carryover from one calendar year to the next. Agencies should resubmit outstanding claims annually to the Virginia debt setoff programs.

### Write-offs

Accounts should be written-off an agency's financial accounting records when all collection procedures, including those required by the OAG, have been conducted without results, and management deems the accounts uncollectible *unless*:

- the accounts receivable amount is owed from one state agency/institution to another state agency/institution,
- there is reason to believe that the amounts will be collected pursuant to legal action, such as a court settlement or judgment, etc.,
- the accounts receivable amount is a federally sponsored student loan, or
- there is a specific federal or legal requirement that prevents an amount from being written-off.

Written-off receivables eligible for the debt setoff programs are required to be submitted to Department of Taxation's debt setoff database. Written-off receivables are not discharged, and should continue to be submitted to private collection agencies and the DDC.

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**Discharge of Debts**      Once an agency has determined that a debt should be discharged, the agency must contact the appropriate authorizing agency and follow their procedures for discharging debts in order to obtain approval. The DDC, Department of Taxation, the Virginia Employment Commission, the State Corporation Commission, or other agency as otherwise provided by law should be contacted.

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## Definitions

### Accounts Receivable

Any amount owed to an agency or institution of the Commonwealth. This includes, but is not limited to, amounts due for the following:

- taxes,
- loans and notes receivable,
- services and goods provided,
- licenses,
- fees,
- federal or state grants,
- monetary damages resulting from breach of contract,
- judgments, fines, costs and/or penalties imposed upon conviction for criminal and traffic offenses,
- court ordered restitution,
- a civil fine, penalty, cost or other financial obligation imposed pursuant to a final administrative order or administrative judgment, and
- an improper payment made by an agency to its employee.

Furthermore, accounts receivable include, but are not limited to, any claim for a debt owed whether arising under contract, subrogation, tort, statute, operation of law, or any other legal theory, and, regardless of whether such debt has been adjudicated, reduced to judgment, or if any collection effort has been undertaken. Accounts receivable are also expenses or monetary damages arising out of injury to state property including, but not limited to, damages resulting from the negligent operation of a motor vehicle. Furthermore, accounts receivable include, but are not limited to, any demand for payment issued by a state agency. Petty cash and advances made from petty cash accounts are not considered receivables for reporting purposes.<sup>1</sup>

For financial reporting purposes (i.e., Quarterly Report or Comprehensive Annual Financial Report), a receivable must be reported when the underlying economic event occurs that results in a claim for amounts being owed to the Commonwealth, excluding petty cash and petty cash advances.

This definition applies to all accounts receivable, including those that have accrued prior to the adoption of the amendments contained in this version of Topic 20505.

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<sup>1</sup> For accounting and reporting purposes only, agencies may classify subcategories of accounts receivable as such: grant and contract receivables, interagency receivables, loans/notes receivable, long-term receivables over 1 year, and other receivables.

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<b>Administrative Offset</b>	Includes, but is not limited to, offsetting any monies, except those specifically exempted by state or federal law, paid by the agency or institution for a debt owed to any other state agency or institution.
<b>Allowance for Doubtful Accounts</b>	Management's estimate of the amount of gross receivables that will be or will prove to be uncollectible.
<b>Billings and Reporting Receivables</b>	A “billing” is any written demand for payment. Receivables are required to be recognized at the time goods or services are provided, even if no formal bill is issued or the charge will not be billed until a subsequent quarter. Furthermore, a receivable should be reported (i.e., Quarterly Report or Comprehensive Annual Financial Report) whenever the underlying economic event occurs that results in a claim for amounts being owed to the Commonwealth. An exception to this general rule exists if cash has already been received to offset the receivable amount as in the case of pre-funded federal block grants. Billings should be issued within 30 days of the time goods or services are provided, or within 30 days of the occurrence of the underlying economic event that results in a claim for amounts being owed to the Commonwealth.
<b>Discharge</b>	<p>The compromise and settlement of disputes, claims, and controversies of the Commonwealth by the OAG as authorized by the <i>Code of Virginia</i>, § 2.2-514, or by the Tax Commissioner, Virginia Employment Commission or State Corporation Commission, or as otherwise provided by law.</p> <p>An agency may not consider a debt of the Commonwealth to be discharged, or except payment of less than the full amount of the debt as payment in full, unless the appropriate authority has specifically acknowledged that the debt has been discharged. After discharge, documentation relating to the debt should be retained and disposed of in accordance with agency policy. For additional information, refer to subtopic "Uncollectible Accounts" in the Procedures Section.</p>
<b>Due from Other State Agencies/ Institutions Receivables</b>	Amounts owed to agencies and institutions by another Commonwealth of Virginia agency or institution for goods and services provided or any other type of transaction or matter. These amounts are reported in the “State Agency to State Agency Receivables” column of the Receivables Summary Report in the Accounts Receivable System. This column was formerly entitled “Interagency Receivables”.

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<b>Past Due (Delinquent) Receivables</b>	Receivables for which payment has not been received by the payment due date. When no due date is listed on a bill or written demand for payment, the due date is thirty days after the date of issuance, unless contractual requirements specify otherwise.
<b>Prospective Debtor</b>	Any person that may become subject to a claim for a debt owed to the Commonwealth. One example of a prospective debtor is a client making application for the delivery of goods or services in exchange for a promise to pay in the future (e.g., an individual applying for admission to a college or university).
<b>Receivables Summary Report</b>	The DOA web-based Accounts Receivable Data Entry system must be used by all agencies and institutions to report accounts receivable activity and balances each quarter.
<b>Recoveries on Accounts Written-Off</b>	Amounts collected on accounts that have previously been written-off the agency's accounting records.
<b>State Agency and Institution</b>	Any authority, board, department, instrumentality, agency or other unit in any branch of state government. The term shall not include any county, city or town, or any local or regional governmental authority or any 'nonstate agency' as defined in the appropriation act.
<b>Write-Off</b>	A transaction that removes an account which management has determined to be uncollectible from an agency's financial accounting records. Writing-off the debt for accounting purposes does not discharge the debt. The debt is still owed to the Commonwealth, but is no longer reported in the agency's accounting records as a receivable. Written-off receivables eligible for the debt setoff programs must be submitted to the appropriate setoff program. Written-off receivables should continue to be submitted to private collection agencies and the DDC. (See subtopic "Write-offs" in the Policy Section.)

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### Agency-Based Receivables Systems

Agencies and institutions should ensure that internal accounting and financial management systems are adequate to properly account for, record, and manage receivables.

The receivable systems of the state's agencies and institutions should:

- Bill accounts timely, whether the receivables are due from private entities, the federal government, localities, or state agencies and institutions. Accounts should be billed when goods are provided, services rendered, or a claim for a debt owed to the Commonwealth arises, unless contractual requirements specify other billing terms or billing terms used are in accordance with industry standards. Payment terms should be thirty days after billing unless contractual requirements specify otherwise or payment terms used are in accordance with industry standards,
- Account for all receivable activity, even if no formal bill is issued or the charge will not be billed until a subsequent quarter,
- Maintain an accurate record of receivables transactions,
- Maintain a control record that summarizes the receivables transactions,
- Effectively interface with other applicable agency-based accounting systems, for example, an agency-based general ledger system,
- Provide an aged trial balance of receivables. DOA requires that the following aging categories be used for statewide reporting: 1-30 days, 31-60 days, 61-90 days, 91-120 days, 121-180 days, 181 days - 1 year, and over 1 year,
- Provide information relative to specific collection efforts on each past-due account,
- Provide information on accounts submitted to Virginia's debt setoff programs,
- Provide realistic estimates of, and properly account for, doubtful accounts and provide adequate documentation of the methodology used (e.g., allowance method, direct write-off method, etc.) to estimate doubtful accounts,
- Provide management reports on the collection status of past-due accounts,
- Properly account for receivables that are written-off,
- Recognize and report receivables in accordance with generally accepted accounting principles (GAAP) as required,
- Comply with federal and other contractual regulations regarding the accounting, reporting, and managing of receivables,
- Maintain a record of all receivable balances, and
- Provide for the accrual of interest, penalties and other applicable fees/charges as allowed or as required by law. (See subtopic " Interest, Administrative Costs, Late Fees, Handling Fees and Other Fees" in the Procedures Section.)

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### Overview of Authorities Governing Accounts Receivable Collection

The Virginia Debt Collection Act (*Code of Virginia*, § 2.2-4800, *et seq.*) establishes the overall policy of the Commonwealth that all agencies and institutions must take "...all appropriate and cost effective actions to aggressively collect all accounts receivable." The Act establishes the DDC as the primary agency responsible for the provision of legal services. The Attorney General promulgates the necessary policies and procedures pertaining to legal issues and litigation of past-due accounts. Agencies are responsible for adhering to the Collection Procedures adopted by the DDC.

Collection requirements are detailed in the Act, by section, as follows:

- §2.2-4804 DOA and the Attorney General shall annually report to the Governor, the Secretary of Finance, and the Chairmen of the Senate Finance and House Appropriations Committees those agencies and institutions not making satisfactory progress toward implementing the provisions of the Act.
- §2.2-4800 All state agencies and institutions are subject to the Act and must have internal policies and procedures in accordance with regulations adopted by DOA and the Attorney General.
- §2.2-4805 interest, charges, and fees may be charged on past due accounts receivable in accordance with guidelines established by DOA. In addition, mandatory interest and attorney's fees may be required. Refer to the "Interest, Administrative Charges, Late Penalty Fees, Handling Fees, and Attorney Fees" section of this Topic of the Manual, providing guidance on the imposition of interest, charges, and fees.

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§2.2-4806 A. Agencies shall take all appropriate and cost-effective actions to aggressively collect accounts receivable including, but not limited to, the following:

- Credit Reporting Bureaus,
- Collection Agencies,
- Garnishments, Liens, and Judgments,
- Administrative Offset.

B. All accounts receivable of \$3,000 or more and 60 days past due must be forwarded to the Office of Attorney General, Division of Debt Collection for collection, except as otherwise provided in D and E. below.

C. All accounts receivable under \$3,000 and 60 days past due must be sent to a private collection agency. The accounts may be first offered to the Division of Debt Collection, but in any case except as noted in D and E below, the accounts must be sent out for collection action.

D. Where the debtor is making periodic payments on the debt, the agency may elect to retain the claim in excess of 60 days so long as those periodic payments continue to be paid promptly until the debt is satisfied.

E. A public institution of higher education must allow a currently enrolled debtor the option to pay his debt in periodic payments over the course of the term or semester in which the debt becomes past due. The institution has the discretion to allow periodic payments for a longer period, so long as the payments are promptly paid until the account is satisfied. If the debtor fails to make his payments, the account should be referred to the Division as prescribed above.

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§2.2-4807 Agencies and institutions shall collect the minimum prescribed information (see subtopic "Minimum Prescribed Information") from clients, debtors, and payees and shall utilize this information, as well as information available from other State agencies, for the purpose of skiptracing debtors, as prescribed in the guidelines of DOA and the Attorney General.

§2.2-4808 In accordance with the guidelines issued by DOA and the Attorney General, agencies will delay or withhold certain State services from those persons who refuse to pay their debts.

In addition to the provisions contained in Topic No. 20505, proper accounts receivable management means maintaining control over the accounts in accordance with the policies and procedures contained in the following documents:

- Virginia Debt Collection Act, *Code of Virginia*, § 2.2-4800, *et seq.*,
- The OAG, Division of Debt Collection authorizing statute (*Code of Virginia*, § 2.2-518, *et seq.*),
- “Collection Procedures” of the Division of Debt Collection of the OAG, (attached in Appendix A of this Topic)
- Government Data Collection and Dissemination Practices Act, *Code of Virginia*, §§ 2.2-3800, *et seq.*,
- The Setoff Debt Collection Act (*Code of Virginia*, § 58.1-520, *et seq.*),
- The Department of Taxation, “Set-Off Program Information Guide.”

The Department of Taxation’s “Set-Off Program Information Guide” may be obtained online at [www.tax.virginia.gov/guidance-documents](http://www.tax.virginia.gov/guidance-documents).

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### Minimum Prescribed Information

Agencies should obtain the following minimum prescribed information on prospective debtors early in the business process, whenever practical:

- Full name and any previous name(s), if applicable,
- Home and office address(es) for the past two (2) years,
- Telephone numbers for home and place of employment,
- Cell phone numbers,
- Federal Employer Identification Number (*Code of Virginia*, § 2.2-4807),
- Social Security Number for individuals (*Code of Virginia*, § 2.2-4354) or sole proprietorships contracting with the state,
- For other individuals, Social Security Number and/or driver's license number (may be requested, but not required except as specifically provided for in law),
- Date of birth,
- Place and type of employment and employer's address, and previous employer if less than two (2) years in present job, and
- A credit bureau report may be required depending on the amount of the potential receivable and the guidelines of the agency or institution.

Individuals may not be denied service solely on the basis of refusal to provide a Virginia driver's license number or social security number. However, a social security number is required from individuals seeking to contract with the state in a business relationship.

Agencies and institutions seeking information about individuals and businesses owing past-due accounts, in order to effectively pursue all available collection methods, should make use of the data files of the following agencies in accordance with each agency's policies and procedures governing the use of the data files.

Information regarding the procedures for using these data files can be obtained by contacting the respective agency. The on-line use of such files is encouraged where it is cost beneficial.

- Department of Motor Vehicles, Driver, Vehicles and Data Management (DVD), for address information.
- Virginia Employment Commission, Unemployment Insurance Services Division, for home and/or business address, and wage and place of employment information.

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- Department of Taxation, Agency Disclosure Officer, Office of Legal and Technical Services, for address information.
  - State Corporation Commission, Office of the Clerk, for business address information on Corporations, Limited Liability Corporations (LLC), Limited Partnerships, and Business Trusts.
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### Use of Specific Collection Techniques

The *Code of Virginia*, § 2.2-4806 A. states that agencies and institutions shall use, but are not limited to, the following practices or procedures for collecting accounts receivable:

- Credit Bureaus: Use the credit bureaus to report past-due accounts, gain information on past-due accounts, and, where applicable, determine the credit potential of a prospective account. Statewide contracts with collection agencies require that the full service collection agencies use credit bureaus.

All debts that reach 60 days past due, except receivables due from other agencies/institutions and debts precluded by law, should be reported to a credit bureau.

The Private Collection Agencies (PCA) under the statewide contract established by the Division of Purchases and Supply are required to report debtors of accounts received by the PCA or that remain uncollected to an appropriate credit bureau unless instructed otherwise by the agency. If your agency uses a PCA under the statewide contract to report to a credit bureau, you should require that the PCA report all accounts received within 30 days of receiving the account from your agency.

Debts not submitted to PCAs under the statewide contract and reported by PCAs to credit bureaus should be reported by agency staff to an appropriate credit bureau within 30 days of the debt reaching 60 days past due.

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## Procedures, Continued

Collection Agencies: Unless it can be shown not to be cost effective or in violation of federal regulations, agencies and institutions shall contract with collection agencies, or use the statewide contracts, to collect past-due accounts under \$3,000 that are 60 days past due. These accounts may first be offered to the DDC before referral to a private collection agency.

Code §§ 2.2-4805 A and B and 2.2-4806 A relate to the debtors' liability for interest and various fees and charges assessed on past due accounts. Unless prohibited by the Code of Virginia, federal law or regulations or otherwise, an agency may recover the amounts of interest and other fees and charges assessed, including collection fees if the agency has a policy of including collection fees as part of its "administrative charge" under Code § 2.2-4805... For an account referred to a collection agency, no attorney's fee shall be added to the account under Code § 2.2-4805(C), unless the collection agency has received an agency's past-due receivable as a direct referral from the DDC. State agencies and institutions shall adjust the balance of a delinquent account receivable to include any additional charges, fees, or interest pursuant to Code § 2.2-4805 *before* referring the matter to the collection agency. This task shall not be the responsibility up the collection agency. See also subtopic "Interest, Administrative Charges, Late Penalty Fees, Handling Fees, and Attorney Fees" herein for additional information.

The Division of Purchases and Supply has awarded a statewide contract for Collection Services for Accounts Receivable. Use of this contract is voluntary for agencies and institutions that currently have a contract established through competitive procurement procedures. Agencies and institutions that do not currently have a contract and are unable to use in-house procedures to collect accounts receivable are required to use the above-referenced contract or establish a contract through competitive procedures.

Each agency and institution is required to send all accounts less than \$3,000 and 60 days past due to private collection agencies, except for those cases identified for exemption in state law or federal regulations; those where the debtor is making timely periodic payments; those identified in this CAPP Topic; or those where an exemption has been granted by the DDC.

For accounts of less than \$3,000, where the agency has other procedures to secure payment, such as to delay or withhold certain state services (e.g., refuse to issue diplomas, refuse to issue licenses or deny re-enrollment) or the ability to institute legal proceedings, it may elect to retain the file beyond 60 days pending the results of such procedures.

For accounts of less than \$3,000, agencies may submit to a private collection debts prior to reaching 60 day past due if:

- in-house collection procedures have been completed, and
- the debt has been submitted to the Virginia debt setoff programs.

Agencies should submit debts of less than \$3,000, including written-off debts, to collection agencies for secondary and additional collection efforts.

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- **Garnishments, Liens, and Judgments:** When such measures are deemed to be cost effective, agencies shall obtain garnishments of debtors' wages, liens against debtors' assets, or judgments from the court in an effort to collect the funds due. The DDC shall institute these legal proceedings on past-due accounts receivables on behalf of state agencies, unless the agency has received an express exemption from the DDC to perform these legal actions on its own.
- **Administrative Offset:** See subtopic "Debt Setoff Programs" in the Procedures Section for information on the individual income tax setoff program, and the State Comptroller's Debt Setoff program. Agencies are encouraged to establish an internal setoff procedure to match agency accounts receivable with agency payments.

The *Code of Virginia*, § 2.2-804, authorizes the collection of improper payments from either the employee to whom the payment was made or the employee who authorized the improper payment.

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### Mandatory and Suggested Past-Due Account Collection Guidelines

Each agency is responsible for establishing account collection policies and procedures that meet the requirements set by the *Code of Virginia*, the Appropriation Act, DOA and OAG. Guidelines for meeting these requirements are illustrated in the following table.

Age of Accounts	\$ 1 - 999	\$ 1,000 - 2,999	\$ 3,000+
Within 1-30 days past due	Mail first past-due letter., including notification of <u>Code</u> §2.2-4805 additional financial obligations (see subtopic “Interest, Administrative Charges, Late Penalty Fees, Handling Fees and Attorney Fees”).	Mail first past-due letter, including notification of <u>Code</u> §2.2-4805 additional financial obligations (see subtopic “Interest, Administrative Charges, Late Penalty Fees, Handling Fees and Attorney Fees”).	Mail first past-due letter, including notification of <u>Code</u> §2.2-4805 additional financial obligations (see subtopic “Interest, Administrative Charges Late Penalty Fees, Handling Fees and Attorney Fees”).
	Make phone contact and obtain a promise to pay in writing. For periodic payment plans, secure a promissory note with a “confession of judgment” provision upon default; and retain copies of all payment checks	Make phone contact and obtain a promise to pay in writing. For periodic payment plans, secure a promissory note with a “confession of judgment” provision upon default; and retain copies of all payment checks.	Make phone contact and obtain a promise to pay in writing. For periodic payment plans, secure a promissory note with a “confession of judgment” provision upon default; and retain copies of all payment checks..
Within 31-59 days past due	Mail second and third past-due letter, including notification of Code of Virginia §2.2-4806 actions (see subtopic “Use of Specific Collection Techniques” in the Procedures Section).	Mail past-due letters every two weeks (2/mo.) with notification of Code of Virginia §2.2-4806 actions (see subtopic “Use of Specific Collection Techniques” in the Procedures Section).	Mail past-due letters every two weeks (2/mo.) with notification of Code of Virginia §2.2-4806 actions (see subtopic “Use of Specific Collection Techniques” in the Procedures Section).
	Make 2nd phone contact, renegotiate, and send confirmation letter.	Make 2nd phone contact, renegotiate, and send confirmation letter.	Make 2nd phone contact, renegotiate, and send confirmation letter.
60 + days past due	Send to private collection agency or OAG, Division of Debt Collection.	Send to private collection agency or OAG, Division of Debt Collection.	Send to OAG, Division of Debt Collection (see subtopic “Referral to the Office of the Attorney General” in the Procedures Section).
	Required to send to Virginia debt setoff programs (see subtopic “Debt Setoff Programs” in the Procedures Section).	Required to send to Virginia debt setoff programs (see subtopic “Debt Setoff Programs” in the Procedures Section).	Required to send to Virginia debt setoff programs (see subtopic “Debt Setoff Programs” in the Procedures Section).
	List debt and debtor with a credit reporting bureau; refuse additional service to the delinquent debtor where this does not conflict with federal or state laws (see subtopic “Provision of State Services to Delinquent Debtors” in the Policy Section).	List debt and debtor with a credit reporting bureau; refuse additional service to the delinquent debtor where this does not conflict with federal or state laws (see subtopic “Provision of State Services to Delinquent Debtors” in the Policy Section).	List debt and debtor with a credit reporting bureau; refuse additional service to the delinquent debtor where this does not conflict with federal or state laws (see subtopic “Provision of State Services to Delinquent Debtors” in the Policy Section).

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### Interest, Administrative Charges, Late Penalty Fees, Handling Fees, and Attorney Fees

The *Code of Virginia*, § 2.2-4805, allows agencies to impose interest, administrative charges, penalty fees, handling fees, and attorney fees on past due accounts receivable subject to the statutory and regulatory requirements explained below.

- **Discretionary Interest:** Agencies and institutions may charge discretionary interest. If choosing to do so, it must be charged at the judgment rate as provided in *Code of Virginia*, § 6.2-302<sup>2</sup> on all past due accounts receivable, unless a contract with the debtor or statute authorizes another interest rate. This discretionary interest, however, may only be charged prior to the 60<sup>th</sup> day after the date of the agency’s first initial written demand for payment.
- **Mandatory Interest:** On the 60<sup>th</sup> day after the date of initial written demand for payment, agencies and institutions shall begin to impose interest at the judgment rate as provided in § 6.2-302 on the unpaid balance of all past due accounts. If a higher interest rate is authorized by contract with the debtor or provided otherwise by statute, then that rate shall be charged in lieu of the judgment rate. Public institutions of higher education may elect to impose a late fee in addition to, or in lieu of, interest so long as the institution retains the claim pursuant to § 2.2-4806(D) or (E).
- **Penalty Fees and Handling Fees:** In addition to other charges and fees, agencies and institutions have the discretion to impose late penalty fees, not to exceed ten percent of the past due amount. Also, all returned checks or dishonored credit card or debit card payments *must* result in the imposition of a \$50 handling fee to be added to the principle account balance, unless a higher amount is authorized by statute.
- **Administrative Charges:** Each past due account receivable may be assessed an administrative charge. This charge is the approximate administrative cost resulting from any cost-effective action to collect an account receivable. Administrative costs may include, but are not limited to, costs incurred from the utilization of certain collection techniques, such as: (i) credit reporting bureaus, (ii) collection agencies, (iii) garnishments, liens, and judgments, and (iv) offset programs. Each agency shall develop and use a standard formula to approximate an administrative charge for its past-due accounts receivables before accessing such charge.
- **Attorney Fees:** When the matter is referred to the DDC, the debtor shall be liable for reasonable attorney fees unless higher attorney fees are authorized by contract with the debtor. “Reasonable attorney fees” are defined as 30 percent of the total past due amount or such percentage charged by the DDC pursuant to *Code of Virginia*, § 2.2-518.

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<sup>2</sup> At time of publishing, *Code of Virginia*, § 6.2-302 provides that the judgment rate of interest is six percent. However, agencies and institutions should consult Code § 6.2-302 for confirmation that the rate has not changed.

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### Application of Funds on Deposit

An agency may apply funds in its possession or on deposit that belong to a debtor for repayment of any delinquent account that is owed to the agency by the debtor, including any individual, business or group. (Code of Virginia, § 58.1-535).

Before doing so, the agency must provide written notice to the debtor of the agency's intent to apply the funds on deposit against the debt. The notice shall set forth the:

- basis for the claim to the funds on deposit;
- intent to apply the funds on deposit; and
- right of the debtor to contest the validity of the claim before the claimant agency.

If the funds on deposit due to a debtor arise from a contractual agreement with the agency, the agency must consult with the DDC or its general counsel before pursuing this remedy

### Debt Setoff Programs

- **Department of Taxation's Individual Setoff Program**

The Code of Virginia, §§ 58.1-520 *et seq.* provides that Virginia individual income tax refunds are subject to state, local government, courts, and Internal Revenue Service claims. A refund in whole or in part may be applied against any past due indebtedness owed the state, local government, or court.

The Department of Taxation's Code of Virginia section for Setoff Debt Collection must be incorporated into an agency's collection procedures. Furthermore, the Code of Virginia, §§ 58.1-521 and 58.1-522 require state agencies and institutions to submit for collection all delinquent debts which they are owed by individuals, provided the administrative cost of submitting the debt does not exceed the amount of the past due debts. Past due debts include those that have been written-off as uncollectible for financial statement reporting purposes as well as those that are still in the collection process.

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*Code of Virginia* § 58.1-526 requires that all agencies establish hearing procedures consistent with the Act when a setoff is contested under the Setoff Debt Collection Act. When a setoff is timely contested, the agency’s hearing procedures must be followed. After receipt, however, of a debtor’s notice of intent to contest, the agency may elect to waive its setoff claim and release the setoff funds held under the Act within 30 days of receipt of the notice and remove its claim from the program. The agency may release the funds if it determines that the administrative cost of following its hearing procedures and conducting a contest hearing exceeds the benefit of the potential setoff received or otherwise makes a hearing not cost-effective. A waiver of a particular setoff claim shall not prevent an agency from asserting any future setoff claims.

The Tax Commissioner has promulgated rules relating to implementation of Code of Virginia, §§ 58.1-520 et seq. Copies of Setoff Debt Collection regulations may be obtained from the Department of Taxation, Debt Setoff Unit.

Refer to the “Set-Off Program Information Guide” (available at [www.tax.virginia.gov/guidance-documents](http://www.tax.virginia.gov/guidance-documents)) issued by the Department of Taxation and available on the Department of Taxation’s website for more information on the submission and setoff of claims (past-due accounts receivable) for the Individual Setoff program.

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- **State Comptroller's Debt Setoff Program**

The State Comptroller's Debt Setoff (CDS) program, also known as the Vendor Setoff program, is authorized by the *Code of Virginia*, §§ 2.2-4800 et seq. CDS provides state agencies an additional method for the collection of past due accounts receivable owed to the state primarily by businesses and individuals acting in a business capacity. Under the CDS program, a payment made by the state to the debtor may be withheld, in full or in part, to satisfy the debt owed the state.

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Refer to the “Set-Off Program Information Guide” issued by the Department of Taxation and available on the Department of Taxation’s website for more information on the submission and setoff of claims (past-due accounts receivable) for the Comptroller’s Debt Setoff program.

- **Submission of Past Due Receivables to Virginia Debt Setoff Programs**

Agencies are required to submit all receivables that are 30 days past due, including written-off receivables, but excluding the exceptions noted herein, to the appropriate Virginia debt setoff program(s). The following past due receivables are exempt from submission to the setoff programs:

- from businesses or individuals in bankruptcy,<sup>3</sup>
- from individuals if the administrative cost of submitting the debt to the Individual Setoff program exceeds the debt,
- debts less than \$5, and where the responsible party is unknown or has yet to be determined.

The required timeframe for submission of past due accounts receivable, including written-off receivables, to either of the debt setoff programs (Individual or State Comptroller’s/Vendor) is subsequent to the receivable becoming 30 days past due but prior to the receivable reaching 60 days past due.

Past due receivables may be submitted or updated as frequently as daily by any agency registered for the Virginia debt setoff programs. Multiple debts from the same debtor can be combined and submitted to the Virginia debt setoff programs.

Each debt submitted and accepted into either of the debt setoff programs is assigned to a calendar year. Debts are only setoff in the assigned calendar year.

Agencies’ debts do not automatically carry forward from one assigned calendar year to the next. Between November 1 and December 20 of each year agencies need to resubmit any previously submitted debts that are still unpaid.

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<sup>3</sup> Please be aware that it individuals who are not in bankruptcy may still be exempt from the debt setoff program if he or she has filed a joint tax return with a co-debtor who has declared bankruptcy. Seek legal advice from the Division of Debt Collection to determine whether this exemption applies before taking action under the setoff program.

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Refer to the detailed "Set-Off Program Information Guide" issued by the Department of Taxation for more information on the submission and setoff of claims (past due accounts receivable). Copies may be obtained from the Department of Taxation's website.

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**Referral to the  
Office of the  
Attorney  
General**

The OAG, Division of Debt Collection is the primary agency responsible for the provision of all legal services and advice related to the collection of accounts receivable, pursuant to the *Code of Virginia*, § 2.2-507.

When it is apparent that compromise or discharge of an account is justified (i.e., a formal settlement is to be made by the OAG with part or all of the debt paid and the remainder discharged), the account shall be forwarded immediately to the Division. The Division shall determine whether a compromise or discharge is appropriate under Code § 2.2-514.

Each agency and institution is required to send all accounts of \$3,000 or more that are 60 days past due to the DDC, except for those cases identified for exemption in state law or federal regulations, those where the debtor is making timely periodic payments, those identified in this CAPP Topic, or those where an exemption has been granted by the DDC.

Where the agency has other procedures to secure payment, such as to delay or withhold certain state services (e.g., refuse to issue diplomas, refuse to issue licenses or deny re-enrollment) or the ability and permission of DDC to institute legal proceedings, it may elect to retain the file beyond 60 days pending the results of such procedures.

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For accounts receivable of \$3,000 or more, upon becoming past due by 60 days, it must be forwarded to the DDC.

For accounts receivable of under \$3,000 and past due by 60 days, agencies and institutions must contract with a private collection agency for collection of these accounts. Agencies and institutions may elect to first refer accounts of under \$3,000 to the DDC. But if the DDC elects not to accept the account for collection, then it must be referred to a private collection agency. See “Use of Specific Collection Techniques” of this Topic for more information on referring accounts to a collection agency.

Notwithstanding the above referral requirements, where the debtor is making prompt, periodic payments satisfactory to the agency, the account may be retained beyond 60 days, until the account is satisfied. If the debtor is delinquent on one of these periodic payments by 60 days, or a different period of time that is first approved by the DDC, then the account must be handled in accordance with the above procedures.

*\*Effective July 1, 2018, a public institution of higher education must allow a currently enrolled debtor the option to pay his debt in periodic payments over the course of the term or semester in which the debt becomes past due. The institution has the discretion to allow periodic payments for a longer period, so long as the payments are promptly paid until the account is satisfied. If the debtor fails to make his payments, the account must be referred to the DDC as prescribed above.*

Pursuant to § 2.2-518, the DDC shall retain up to 30 percent of receivables collected on behalf of state agencies, except for amounts agencies collect pursuant to the Setoff Debt Collection Act (§ 58.1-520, *et seq.*). Nonetheless, state agencies may elect to financially compensate the DDC for an agreed sum if the DDC has provided legal services to the agency in connection to an amounts collected under the Setoff Debt Collection Act. This provision, however, shall not obligate the DDC to provide any legal services to an agency under the Setoff Debt Collection Act.

Agencies are required to notify the DDC of any direct payments made to the agency, including those made pursuant to the Setoff Debt Collection Act or the Comptroller’s Vendor Setoff Program, on claims that have been referred to the DDC within 30 days of receipt of receiving the funds.

According to § 2.2-519, the DDC is to enforce the referral policies and collection procedures set forth in § 2.2-4806. In addition, the Auditor of Public Accounts shall conduct audits for compliance with the requirements adopted herein, by the DDC, and the Virginia Debt Collection Act, particularly the referral requirements of § 2.2-4806, as part of its duties under Code § 30-133(A) and (I). Any agencies and institutions that are noncompliant with the requirements of the Virginia Debt Collection Act, particularly § 2.2-4806, may be reported in the State Comptroller’s Report on Statewide Financial Management and Compliance (Quarterly Report).

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**Division or  
Private  
Collection  
Agencies  
Exemptions**

To request an exemption to the requirements for submitting accounts 60 or more days past due to the DDC or private collection agencies, state agencies must follow the procedures in the “Division of Debt Collection’s Collection Procedures,” attached hereto at Appendix A.

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**Office of the  
Attorney  
General  
Submission  
Procedures**

For detailed procedures regarding submission of past-due accounts to the OAG, please refer to the "Collection Procedures" of the DDC of the Office of the Attorney General. A copy of these procedures is published at Appendix A at the end of this Topic. A copy of the latest version may be obtained from the DDC.

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**Establishing an  
Allowance for  
Doubtful  
Accounts**

Management should establish an allowance for doubtful accounts to reflect the amount of an agency's receivables that management estimates will be uncollectible. The establishment of an allowance account ensures that the agency's receivables are not overstated for financial reporting purposes.

The method of establishing an allowance for doubtful accounts is left to the agency's discretion. However, the estimated allowance should be based upon historical data or other pertinent information relative to the receivables in question. If an agency needs guidance in establishing an allowance for doubtful accounts, DOA’s Compliance Oversight and Federal Reporting Unit should be contacted.

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### Uncollectible Accounts

#### Write-Off of Uncollectible Accounts

Accounts should be written-off an agency's financial accounting records when all collection procedures, including those required by the OAG, have been conducted without results and management deems the accounts uncollectible. Accounts due from individuals or vendors must be submitted to the Department of Taxation for setoff debt proceedings at least once prior to write-off. For further details, see subtopic "Debt Setoff Programs" in the Procedures Section. Since the debt is still owed to the Commonwealth, collection procedures should continue after write-off. These accounts shall continue to be submitted to the Department of Taxation for debt setoff proceedings, to private collection agencies and the DDC pursuant to the Virginia Debt Collection Act and the provisions of this Topic.

Although agencies are generally required to obtain approval from the DDC to discharge or compromise a debt, agencies are not required to obtain approval from the OAG to write-off uncollectible accounts from agency's financial accounting records. However, DOA requires that the reasons for writing-off an account and compliance with the agency's write-off policy must be adequately documented. Such documentation must be readily available for audit.

Amounts owed from one state agency/institution to another state agency/institution cannot be written-off without DOA approval. If an agency is unable to collect receivables from another state agency, the agency should contact DOA's Compliance Oversight and Federal Reporting Unit for assistance. The State Comptroller has the authority to process the State Agency to State Agency Receivables transactions considered necessary under the circumstances.

Federally sponsored student loans should be written-off and no longer considered a debt of the agency when assigned to the U.S. Department of Education or other applicable federal agency.

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**Accounting for  
Receivables  
Written-Off**

Uncollectible accounts may be written-off an agency's financial accounting records and no longer recognized as collectible receivables for financial reporting purposes, but the legal obligation to pay the debts still remains. Accounts written-off remain debts of the agency until collected or discharged by the OAG or an agency with authority to discharge. Certification by the OAG that further measures to collect a debt are not appropriate does not discharge a debt.

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**Provision of  
State Services  
to Delinquent  
Debtors**

Agencies and institutions shall develop internal policies and procedures for delaying or withholding certain state services to persons who refuse to pay their debts in accordance with the accounts receivable policies of the DOA and the OAG. (*Code of Virginia*, § 2.2-4808). This policy shall not be interpreted to be in conflict with the policies of any state-supported hospital and shall not be the basis of denying necessary mental health or medical assistance or other similar services deemed necessary under federal or state laws to any individual.

Institutions of higher education shall develop policies and procedures to ensure that no student having any outstanding past-due accounts with that institution is allowed to enroll for the next year.

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### **Insufficient Funds (NSF) Checks Receivable**

NSF checks receivable represent the total amount of NSF checks from individuals and organizations received and deposited by the agency but then returned by the bank to the agency because sufficient funds were not available to honor the checks. When this occurs, the agency must attempt to redeposit the check at least one more time. If the bank notifies the agency that the check(s) still cannot be honored, the agency can process the NSF check(s) in one of two ways:

1. The agency buys back the check from the bank and creates a receivable.

#### RECEIVABLES - NSF CHECKS(S) - INCREASE

Debit Receivables — NFS Check(s) (Cardinal Account 112100)

Credit Cash (Cardinal Account 101010)

To record the reimbursement check written to the bank to offset the NSF check previously deposited.

If the payment is subsequently received, the receivable is decreased and cash is increased via a deposit (see CAPP Topic No. 20205, "Deposits")

#### RECEIVABLES - NSF CHECKS(S) - DECREASE

Debit Cash (Cardinal Account 101010)

Credit Receivables — NSF Check(s) (Cardinal Account 112100)

To record the collection of funds to cover the NSF check from the payee.

2. The agency buys back the check(s) using the agency petty cash fund. In this way the agency would avoid issuing another State check and will replenish the petty cash fund when payment is received. (See CAPP Topic No. 20330, "Petty Cash")

If an NSF check is deemed by management of the agency to be a bad debt, it may be written off by debiting revenue and crediting the receivable as follows:

#### RECEIVABLES - NSF CHECKS(S) - DECREASE

Debit Revenue (using the revenue account where the revenue was originally recorded)

Credit Receivables — NSF Check(s) (Cardinal Account 112100)

To record the write-off of the NSF check(s)

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## Procedures, Continued

### Guidelines for Uncollectible Receivables Written-Off

Guidelines to account for uncollectible receivables that have been written-off are outlined below:

<b>Amount</b>	<b>Action</b>
\$25 or more	Retain a summary level record of the accounts ( <b>including name, TIN, and address</b> ) sufficient to substantiate the debt indefinitely or until the debt has been collected or discharged.
Less than \$25	<b>Effective with the publishing of this CAPP Topic – August 2018 release, retain a summary level record of the accounts (including name, TIN, and address) sufficient to substantiate the debt indefinitely or until the debt has been collected or discharged. Multiple debts from the same debtor can be combined and submitted to TAX’s debt setoff database.</b>
Control Total Amount	Maintain and report to DOA as outlined in the Accounts Receivable On-Line Application Users’ Guide.
Indigent Care or Contractual Adjustment	Adhere to applicable indigent care regulations and/or applicable insurance contractual agreements. The procedures to account for uncollectible receivables do not apply.

### Discharge of Debts

Once an agency has determined that a debt should be discharged, the agency must contact the appropriate authorizing agency and follow their procedures for discharging debts. The OAG, Department of Taxation, the Virginia Employment Commission, the State Corporation Commission, or another agency as otherwise provided by law should be contacted.

### Reporting of Receivables

Agencies and institutions must report accounts receivable to DOA’s Compliance Oversight and Federal Reporting Unit quarterly. Additionally, all agencies and institutions must submit an annual Comptroller’s Directive submission to DOA’s Financial Reporting Unit certifying the receivables balances as of June 30, even if the balance is zero.

Agencies must begin reporting receivables if operating conditions change to the extent that receivables are generated.

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## Procedures, Continued

### Submission of Reports

At least quarterly, agencies and institutions must enter all accounts receivable and other information into DOA’s web-based Accounts Receivable Data Entry system. All data entry must conform to the Accounts Receivable On-Line Application User’s Guide.

On or before the due date of the annual Comptroller’s Directive submission, agencies and institutions must:

- prepare and enter their data into DOA’s web-based Accounts Receivable Data Entry system summarizing their receivables as of June 30 and
- ensure that the amounts shown in the Accounts Receivable data entry system agree to the amounts reported on the Comptroller’s Directive submissions.

The June 30 accounts receivable report should be retained by the agency in support of the balances reported in their annual financial statements, where applicable. Notwithstanding any other provisions of this section, agencies that discover significant differences in the status of their receivables after the Comptroller’s Directive submission date must immediately notify DOA.

### Preparation of the Receivables Summary Report

The Receivables Summary Report must be completed and submitted by keying the accounts receivable information into the DOA web-based Accounts Receivable Data Entry system.

An agency or institution may use the DOA-provided electronic spreadsheet to summarize accounts receivable information. This spreadsheet can then be used as the tool for keying the accounts receivable information into the DOA web-based Accounts Receivable Data Entry system.

Instructions for the preparation of the Receivables Summary Report are in the Accounts Receivable On-Line Application User’s Guide. The Guide is available on DOA’s website at:

[https://www.doa.virginia.gov/forms/Accounts\\_Receivable/AcctsRecv\\_Data\\_Entry\\_Users\\_Guide.pdf](https://www.doa.virginia.gov/forms/Accounts_Receivable/AcctsRecv_Data_Entry_Users_Guide.pdf)

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## Procedures, Continued

**Recording  
Receivables in  
the Accounts  
Receivable  
Data Entry  
System**

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The Accounts Receivable On-Line Application User’s Guide should be followed when entering receivable data into DOA’s web-based Accounts Receivable Data Entry system. In order to access the web-based system, an Accounts Receivable Security Authorization Request must be completed and forwarded to DOA. A copy of this form can be downloaded from DOA’s website at <https://www.doa.virginia.gov/forms.shtml#AccountsReceivable>

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## Internal Control

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### General

Each agency and institution should implement internal control procedures to assure that:

- Accounts receivable policies and procedures are in accordance with the Code of Virginia, the Acts of the Assembly, requirements outlined by DOA and the OAG; are clearly stated; and are systematically communicated through manuals, handbooks or other media.
- All receivables transactions are properly and accurately recorded, aged, and accounted for in the agency-based accounting system.
- All interest, fees and penalties are charged, collected and accounted for in accordance with established policies, procedures and legal requirements.
- All billings are timely and are accurately recorded and documented on the date the revenue transaction is completed, or on the nearest normal billing cycle date.
- All collections on accounts receivable are deposited and recorded in a timely manner, and reflect the source and date of payment.
- All adjustments, write-offs and discharges are properly authorized, documented, and made in accordance with established policies, procedures and legal requirements.
- Uncollected accounts are periodically reviewed and collection actions are taken in accordance with established policies, procedures and legal requirements.
- All past due receivable transactions are submitted to the Virginia debt setoff programs in accordance with established policies, procedures and legal requirements.
- All exemptions to accounts receivable policies and procedures utilized are supported by written documentation from the OAG, federal regulations, state statutes or this CAPP Topic.
- Account balances are aged periodically and reviewed by an official not involved in cash receipts and disbursements.
- Recorded balances of receipts and accounts receivable and related transaction activity should be periodically substantiated and evaluated.
- Required report information is accurately prepared, keyed and transmitted to the DOA web-based Accounts Receivable Data Entry system by the due date.

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## DOA Contact

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**Contact** Accounts Receivable Coordinator  
 (804) 225-3051  
 [acctsrecv@doa.virginia.gov](mailto:acctsrecv@doa.virginia.gov)

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## Subject Cross References

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**References** CAPP Topic No. 20205, *Cardinal Deposits*  
CAPP Topic No. 20330, *Cardinal Petty Cash*  
CAPP Topic No. 20410, *Cardinal Intra-Agency Transactions*  
Department of Accounts' Accounts Receivable and Prompt Payment On-Line  
Application User's Guide

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## APPENDIX A

### Division of Debt Collection’s Collection Procedures

#### I. Internal Collection Procedures -

##### A. First 60 Days:

Internal collection procedures should be developed by each agency in accordance with the guidelines of the Department of Accounts and the Virginia Debt Collection Act. Agencies have 60 days from the account’s due date in which to pursue all internal collection procedures.

##### B. Agency Retention in Excess of 60 Days:

1. Where the agency has other procedures to secure payment (such as refusal to issue diplomas, refusal to issue licenses or the ability to institute legal proceedings), it may elect to retain the file pending the results of such procedures.
2. Where the debtor is promptly paying a debt in periodic payments to the agency, the account may be retained until the account is satisfied. In the event the debtor is delinquent (i) by 60 days in paying a periodic payment or (ii) for such other period of time approved by the Division, the account shall be referred as discussed below.

#### II. Referral of Accounts -

##### A. First 60 Days:

If within the first 60 days, it is apparent that the collection will not be secured without legal assistance or that compromise of the claim is justified, (i.e., a formal settlement is to be made by Office of the Attorney General, with part of the debt paid and the remainder discharged), the account shall be forwarded immediately to the Division of Debt Collection of the Attorney General’s Office. Otherwise, agencies should utilize internal collection procedures, as referenced in Section I.

##### B. After First 60 Days:

1. Claims under \$3,000 shall be referred to a private collection agency

Unless an exception has been granted under Section III, all claims less than \$3,000 shall be referred to a private collection agency after the agency has completed procedures under Section I.

- a. The services of a collection agency shall be procured in accordance with policies of the Division of Purchases and Supply in the Department of General Services. Any

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contract with a collection agency which varies the terms of the form contract approved by the Department of General Services must meet state procurement requirements.

b. The Division of Debt Collection may accept the account for collection or return it to the agency or institution for referral to a private collection agency.

2. Claims that exceed \$3,000 shall be referred to the Division of Debt Collection -

a. Every claim sent to the Division of Debt Collection should include a completed Division of Debt Collection Referral Form and a complete copy of the agency's file, including original contracts.

b. The Division of Debt Collection shall review the forwarded accounts to determine the appropriate collection efforts, if any, and then take appropriate action.

III. Exceptions -

The Office of the Attorney General may grant exceptions to these procedures, as authorized by statute. A request for an exception must be made in writing to the Division of Debt Collection of the Office of the Attorney General, and the Division of Debt Collection will respond to the request in writing.

**Files regarding medical claims should be referred to Ethan Benson, Claims Specialist, and all other claims to Debbie Cook, Senior Expert Claims Specialist. The claims should be sent to Office of the Attorney General, Division of Debt Collection, P.O. Box 610, Richmond, Virginia 23218-0610. Ethan Benson can be reached at (804) 786-3840, and Debbie Cook can be reached at (804) 786-3649.**

**The agency must notify the Division of Debt Collection in writing of all post-referral payments that are made directly to its office. Notice must include the date the payment was made, amount of payment, and source of payment (i.e. made by debtor, setoff debt, insurance company, etc.).**

**Once the file has been referred to the Division of Debt Collection, all calls, communication, and correspondence regarding the file should be directed to the Division of Debt Collection, except for communications regarding the Setoff Debt Collection Act.**

**Revised December 2013**

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**OFFICE OF THE ATTORNEY GENERAL  
Division of Debt Collection Referral Form**

AGENCY: \_\_\_\_\_

DEBTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

SOCIAL SECURITY NUMBER  
OR FEDERAL ID NUMBER: \_\_\_\_\_

TELEPHONE NUMBER(S): \_\_\_\_\_

CO-DEBTOR NAME(S): \_\_\_\_\_  
Address, Social Security Number  
& Date of Birth \_\_\_\_\_

AGENCY ACCOUNT NUMBER: \_\_\_\_\_

TYPE OF ACCOUNT: \_\_\_\_\_

(loan, fines, penalties, overpayment, contract, tuition & fees, property damage,  
hospital bill, etc.)

ORIGINAL PRINCIPAL DEBT AMOUNT: \$ \_\_\_\_\_

INTEREST RATE: \_\_\_\_\_ %

INTEREST ACCRUAL BEGIN DATE (per Contract): \_\_\_\_\_

CURRENT PRINCIPAL BALANCE: \$ \_\_\_\_\_

LATE FEES: \$ \_\_\_\_\_

INVOICE OR INITIAL DEMAND LETTER DATE: \_\_\_\_\_

DATE OF FINAL ORDER: \_\_\_\_\_

FINAL ORDER RECORDED IN (COURT): \_\_\_\_\_

DATE OF RECORDATION: \_\_\_\_\_

BOOK & PAGE NUMBER OF RECORDATION: \_\_\_\_\_

INSTRUMENT NUMBER: \_\_\_\_\_

**Provide original contracts and a complete copy of your file, including an itemization of all charges, dates and amounts of all credits, and the allocation of the credits between principal, interest, and fees.**

Revised March 2010

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**Division of Debt Collection Referral Form Instructions**

*Please include a **complete** copy of your file!!*

Contracts typically specify an interest rate, a date or event that triggers interest accrual, and an attorney’s fees clause. Changes to Virginia law that took effect on July 1, 2009, are highlighted in the attached Virginia Code § 2.2-4805, which enables agencies to charge interest at the judgment rate (currently at 6% per annum) on accounts that remain unpaid for 60 days, and to tax attorney’s fees to debtors whose accounts are referred to DDC. This legislative change *enables* the charging of interest; it *does not mandate* the charging of interest. DDC highly recommends that agencies charge interest. Recent modification of the DDC Referral Form is intended to address non-contractual debt incurred on or after July 1, 2009.

Since agency billing techniques vary, each agency that elects to charge interest must determine the appropriate 60-day trigger event for its accounts. In order to ensure the same interest accrual begin date for all debtors associated with a multiple-debtor account, agencies must ensure that all responsible payers are billed simultaneously. We at DDC are happy to provide guidance regarding unique situations; however, we hope the following examples address some of the most common concerns:

1. If an individual registers for classes at a university and is sent a letter on June 10, that advises tuition and fees charges for the Fall Semester must be paid by August 28, the 60-day period begins on August 29. In this example, the date on which interest accrual begins is October 27 which is 60 days after the due date set forth in the initial demand for payment.
2. If an individual damages State property and an invoice for the repair costs is mailed to the responsible party on November 1, interest accrual begins 60 days later, on December 31.
3. If an uninsured patient is treated at a hospital, the 60-day period begins when the invoice is mailed to the patient. If an insured patient is treated, the 60-day period begins when the invoice for amounts not covered by insurance is mailed to the patient.
4. If an individual has an account that includes claims for debts incurred at different times, the invoice or demand letter date applicable to the latest debt is the date that must be used for the entire account balance unless the agency wishes to have each debt treated as a separate claim.

Debtor Name:            *Enter the debtor’s full name and any known aliases.*

Address:                *Enter the debtor’s most-recent known address.*

E-mail address:        *Enter the debtor’s e-mail address.*

Date of Birth:           *Enter the debtor’s date of birth.*

Social Security Number        *Enter the individual’s SSN or business entity’s*  
or Federal ID Number:        *federal ID number.*

Telephone Number(s):        *Enter all known telephone numbers.*

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Co-Debtor Name(s): *Enter all known information pertaining to additional parties responsible for payment.*  
Address, Social Security Number & Date of Birth

Agency Account Number: *Enter any number by which you identify the debtor.*

Type of Account: *Enter loan, fines, penalties, overpayment, contract, tuition & fees, property damage, hospital bill, etc.*

Date Debt Incurred: *If the basis of the debt is a one-time occurrence, such as property damage, enter the date of the occurrence. If the basis of the debt is tuition and fees, enter the semester(s) during which the tuition and fees charges were incurred.*

Original Principal Debt Amount: *Enter the principal amount of the debt before any credits were applied, or any late fees or interest accrued.*

Interest Rate (per Contract): *Only complete if there is a contract providing for interest.*

Interest Accrual Begin Date: *For debts arising from contract, enter the date on which interest began to accrue pursuant to the contract. If the debt did not arise from contract, enter the date 60 days from the initial invoice or the due date set forth in the initial demand for payment.*

Current Principal Balance: *Enter the amount remaining of the original principal debt amount, less any credits, plus any charges permissibly added to principal.*

Late Fees: *Enter the total amount of late fees that have been assessed and remain unpaid.*

Invoice or Initial Demand Date: *Enter the date of the invoice or the date of the demand letter.*