

ORIGINAL AGREEMENT
Agency Participation Agreement
Office of Debt Recovery

1. Parties

This Agency Participation Agreement ("APA") is entered into by:

- a. The Office of Debt Recovery ("ODR"), an office within the Department of Revenue ("LDR"), and,
- b. _____
(hereinafter sometimes referred to as "Agency").

2. Program Description

- a. R.S. 47:1676 authorized ODR to collect outstanding debts owed to the State of Louisiana and its municipalities.
- b. Executive branch agencies that are owed delinquent debts are mandated to refer those delinquent debts to ODR for collection.
- c. Meanwhile, non-executive branch agencies, municipalities and other state entities may refer delinquent debts to ODR for Collection.

3. Term

- a. This agreement begins from the date of signing by the parties and expires five (5) years from the date of the last party's signature on the document, unless an early termination request is requested by either party.
- b. Either party may request an early termination for any reason or no reason by giving a sixty (60) day notice.
 - i. The Agency placing the debt will recall all of the debt from ODR and work to pull back the debt from all collection tools on the accounts will begin within five (5) working days of the notice of termination.
 - ii. Any funds already collected but not paid to the Agency will be paid through the normal monthly payment process and in accordance with R.S. 47:1676.
- c. Upon expiration of initial term of this agreement, the parties may choose to:
 - i. Renew the agreement or
 - ii. Operate under the terms of this agreement on a month to month basis
 - iii. until:
 - (a) Another agreement is entered into by the parties, or
 - (b) All the debt is recalled by the Agency.
- d. The parties also agree that the termination or expiration of this agreement does not supersede the rights and responsibilities of any of the parties as set forth in La. R.S. 47:1676.

4. Definitions

- a. **"Authenticated"** means that the referring Agency has certified the amount of the delinquent debt, the debtor's liability, the debtor's name, address, telephone number, social security number, and the federal or state taxpayer identification number.
- b. **"Debt"** means any legally collectible liquidated sum due and owing an Agency or due and owing a person and collectible by any agency, or a judgment, order of the court, or bond forfeiture that is properly certified by the clerk and that orders the payment of a fine or other court-ordered penalty.

- i. The legally collectible and liquidated sum due includes principal and accruing interest, fees, and penalties, if appropriate.
- ii. For purposes of this APA, "debt" shall not include any legally collectible liquidated sum due and owing to an agency or an individual pursuant to the following federal programs: Title IV-A, Title IV-B, Title IV-D, Title IV-E, Title XX of the federal Social Security Act, 7 United States Code (U.S.C.) 2011 et seq., 10 42 U.S.C. 9858 et seq., 42 U.S.C. 5101 et seq., 42 U.S.C. 5116 et seq., 42 U.S.C. 10401 et seq.;
- iii. Nor shall "debt" include, any sums due on account of overpaid unemployment compensation benefits or unpaid contributions or reimbursements pursuant to Louisiana Employment Security Law under R.S. 23:1471 et seq.
- c. "**Delinquent debt**" means a debt that is sixty (60) days or more past due.
- d. "**Final delinquent debt**" means the debt is delinquent and the amount due cannot be legally challenged because the debtor has no further right of administrative or judicial review.
- e. "**Non-final delinquent debt**" means the debt is delinquent but the amount due can be legally challenged because the debtor still has administrative or judicial rights.
- f. "**Agency collection efforts**" means actively calling and mailing collection notices to the debtor. Collection efforts does not include accepting payments on debt by the debtor, denying registration, denial of licenses (recreational or professional) denial of grades, or offsetting future vendor payments on vendors that may owe debt.

5. Agency Responsibilities

The Agency referring debt to ODR agrees to:

- a. Authenticate all delinquent debt;
- b. Send all delinquent debt to ODR in ODR's preferred file format;
 - i. The file will be sent via secure file transfer protocol (SFTP), uploaded to a secure web portal or through other methods if the Agency is unable to comply with the first two (2) options listed.
 - ii. The Agency is responsible for notifying ODR of the need to find an alternate file transfer method ten (10) days after the Agency discovers they cannot participate in SFTP or web portal uploading.
 - iii. ODR and the Agency must implement an alternative file transfer plan thirty (30) days after the Agency's notification of non-compliance.
- c. Send the debtor proper notice that:
 - i. Requests payment of the debt;
 - ii. Contains information necessary to identify the nature and amount of the debt;
 - iii. Notifies the debtor that failure to pay the delinquent debt in full within 60 days will cause the debt to be transferred to the ODR for collection;
 - iv. Notify the debtor that an additional collection fee of up to twenty-five percent (25%) of the total debt liability will be added to the delinquent debt upon transfer to the ODR for collection;
 - v. Notify the debtor that a claim will be filed with the UNITED STATES TREASURY OFFSET PROGRAM where all payments "eligible for offset" will be seized, up to the amount of the debt plus any additional fees.
 - (a) Additional collection tools will be used to collect the outstanding debt which may include reporting the debt to a credit reporting agency or suspending and/or revoking professional license.
- d. Stop all Agency collection efforts once the delinquent debt has been referred to ODR;
- e. Provide any assistance or information to ODR if the delinquent debt is challenged or questioned;

- i. Assistance or information requests will be sent to the Agency by the ODR collector.
- ii. The Agency should respond to the requestor within a reasonable time frame to comply with any legal requirements and will be informed if the response is needed within a more urgent time frame.
- f. Suspend, revoke or deny any licenses, permits, certificates or other privileges in which suspension, revocation or denial could be used as a collection tool.
- g. Provide any and all information needed to respond to any challenges and aid in the handling and tracking of all suspensions, denials and revocations.
- h. Provide all resources necessary to comply with the duties and responsibilities of this agreement.
- i. Notify ODR of any payments it may collect on a debt placed with ODR.
- j. Notify ODR via an Agency Direct Payment File within 7 days to prevent over collection.
- k. Submit the ODR Fee portion of the payment to ODR or notify ODR to take the ODR Fee from the next Agency payment.

6. ODR Responsibilities

The ODR agrees to:

- a. Notify the debtor by letter, within fifteen (15) days after receiving the delinquent debt, that the debt has been referred to ODR. The letter will include the following information:
 - i. The total amount owed to the ODR;
 - ii. The amount of ODR's collection fee;
 - iii. The name of the agency that referred the debt to ODR;
 - iv. The date of the notice; and,
 - v. Notification that ODR may forward the collection matter to third party collector (including the Attorney General's Office) for further collection efforts, which may incur additional fees and costs.
- b. Handle initial questions, issues and challenges related to the collection of delinquent debt on behalf of the Agency;
- c. Make timely requests to the Agency for additional information when needed;
- d. Create and transmit a monthly payment report listing any payment received on your debt by ODR within the previous month;
- e. Create and transmit any of the following reports when requested;
 - i. Debt status report(s) listing any accounts that have been returned to the Agency for a variety of reasons that may make the account uncollectible, such as but not limited to, the recall of the account, death, bankruptcy, the debtor is out of business, the debtor business is inactive, the debtor cannot be located and all skip trace efforts have been exhausted, collection efforts have been exhausted and no acceptable regular payments were initiated.
- f. Send timely requests for license, permit or certificate suspensions, denials or revocations while handling the suspension, denial or revocation of driver's and hunting and fishing licenses immediately; and,
- g. Use the collection tools below to collect the delinquent debt of the referring Agency;
 - i. State Tax Offset Program: allows ODR, to intercept, seize or garnish any state tax refund in the name of any debtor
 - ii. Federal Vendor Offset Program: allows ODR, to intercept, seize or garnish any federal payments in the name of any debtor
 - iii. Financial Institution Data Match: allows ODR, in accordance with La. R.S. 47:1677, to intercept, seize or garnish any monies identified in an account that is in the name of any debtor
 - iv. Any other collection tool not specified in La. R.S. 47:1676 or listed above as permitted by law.

- h. Provide all resources necessary to comply with its duties and responsibilities set forth in this agreement.
- i. Any funds that might be collected due to timing of collections tools on accounts that are no longer placed with ODR will be returned to the debtor.

7. Compensation

Unless compensation is otherwise provided for by law or in an instrument evidencing the debt, compensation will be set forth as follows:

- a. For debt that became final before June 17, 2013, ODR shall receive up to twenty-five (25%) of the total debt collected.
- b. For debt that becomes final after June 17, 2013, ODR shall charge the debtor up to twenty-five percent (25%) of the total liability pursuant to La. R.S. 47:1676.

8. Returning Collected Funds to Agency

ODR will send funds collected to the Agency within thirty (30) days from the end of the month in which the funds were collected in the following method:

- a. For debt that was placed with the ODR prior to January 1, 2024, payments will be will be allocated by an 80/20 split. 80% of the payment will be sent to the Agency and 20% will be applied to the ODR fee until the payment is paid off.
- b. For debt that was placed with the ODR after January 1, 2024, payments will be will be allocated by an 86.9565/13.0435 split. 86.9565% of the payment will be sent to the Agency and 13.0435% will be applied to the ODR fee until the payment is paid off.

9. Confidentiality of Information in the Centralized Electronic Debt Registry

- a. All information contained in the centralized electronic debt registry constitutes confidential debtor information.
- b. The Agency agrees to be bound by La. R.S. 47:1676(D)(2) and R.S. 47:1676(F)(1) and (2) regarding the confidential character of records and information contained in the centralized electronic debt registry. The Agency also:
 - i. Acknowledges that in limited circumstances only, the records and related information in the centralized electronic debt registry are potentially subject to disclosure in accordance with the public record law of the State of Louisiana, and
 - ii. Agrees that the Agency shall not discuss, disclose or otherwise make available any such information or data to anyone without proper notification to the ODR.
- c. Further, all parties agree that by entering into this agreement they will have access to certain confidential information regarding the debtor.
 - i. Neither of the parties bound by this agreement will at any time disclose confidential debtor information and/or materials without the consent of the subject debtor unless such disclosure is authorized by this Agreement or required by law.
 - ii. Confidential information will be handled with the utmost discretion.

10. Confidentiality of Tax or Taxpayer Information in the Centralized Electronic Debt Registry

- a. To the extent any of the data gathered during the collection process constitutes taxpayer information; the Agency agrees to be bound by La. R.S. 47:1508 regarding the confidential character of tax records and information.
- b. The Agency also acknowledges that tax records and related information are not subject to disclosure or the public record law of the State of Louisiana, and agrees that it shall not discuss,

disclose or otherwise make available any such information or data to anyone other than representatives of LDR.

- c. Further, all parties agree that by entering into this agreement they will have access to certain confidential information regarding the taxpayer.
 - i. Neither of the parties bound in this agreement will at any time disclose confidential taxpayer information and/or materials without the consent of the subject taxpayer unless the disclosure is authorized by this agreement or required by law.
 - ii. Confidential information will be handled with the utmost discretion.
 - iii. The Agency agrees to comply with the confidentiality requirements of La. R.S. 47:1508 through 47:1510 and as required by state law for all records and documents collected, maintained, or generated by the Agency under this agreement.

11. Confidentiality of Referring Agency Data or Information

The Agency agrees that it will attach as exhibit A all the confidentiality provisions or statutes that govern the handling of its data and/or information.

12. Warranties and Indemnification

- a. Each signatory warrants they have the authority to institute policy and procedures within their respective department or agency regarding debt collection and that this agreement shall become binding and enforceable policy and adhered to in good faith following execution by both parties in the presence of the undersigned witnesses.
- b. Each party to this agreement will be liable for the acts and omissions of its own employees. Upon receipt of the debt referral, ODR shall assume all liability for its actions without recourse to the agency and shall comply with all applicable state and federal laws governing debt collection.

13. Remaining Provisions

- a. **Intention of Agreement:** This agreement is not intended to vacate, supersede, or diminish any previously established authority, rights or privileges prior the execution of this agreement.
- b. **Agreement Modification:** The terms and conditions of this agreement may only be modified by a writing signed by all parties.
- c. **Full Agreement; Severability:** This agreement, together with any ADDENDUM attached hereto, set forth the full terms of the agreement between the two parties. If any section of this agreement is found to be invalid for any reason, such section shall be severed from the agreement and the remainder of the terms and conditions of this agreement shall be binding on ODR and the Agency. Moreover, this APA, upon its effective date, terminates any other APA executed by the parties on the topics, issues and concepts set forth in this document.
- d. **Louisiana Law; Headings:** This agreement shall be governed by, construed and interpreted in accordance with the law of the State of Louisiana. The headings and sections or paragraphs are merely for convenience of reference and have no substantive significance and shall be disregarded in the interpretation of this agreement.
- e. **Ownership:** All records, reports, documents and other material delivered, transmitted, obtained or prepared by the Agency to ODR shall remain the property of ODR.
- f. **Non-assignability:** The Agency shall not assign any interest in this agreement by assignment, transfer, or novation, without prior written consent of ODR.
- g. **Auditors' Clause:** The Louisiana Legislative Auditor of the State of Louisiana and/or the Office of the Governor, Division of Administration auditors shall have the option of auditing all accounts of the Agency which relate to this agreement.

- h. **Discrimination Clause:** Both parties agree to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Act of 1975, and both parties agree to abide by the requirements of the Americans with Disabilities Act of 1990. Both parties agree not to discriminate in its employment practices, and will render services under this agreement without regard to race, color, religion, sex, national origin, veteran status, political affiliation or disabilities. Any act of discrimination committed by either party, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this agreement.
- i. **Use of Encryption:** Encryption shall be utilized for the transport and storage of shared Confidential and Restricted data in accordance with the State Information Security Policy.
 - i. Furthermore, both parties agree to establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of the data exchanged through this agreement and to prevent unauthorized use of or access to it.
 - ii. Any suspected, attempted, or successful breach of security must be reported to all parties and the OTS Information Security Team (IST) as soon as practical, but no later than forty-eight (48) hours after the event.
 - iii. Notify the IST by calling the Information Security Hotline at 1-844-692-8019 and emailing the security team at infosecteam@la.gov.

14. Project Managers

The project managers for this agreement are as follows. Please include contact information.

For ODR: Brett D. Poirrier,
Director - Office of Debt Recovery
P.O. Box 66258 (70896)
617 North 3rd St., 7th Floor
Baton Rouge, LA 70802
(225) 219-2671
(225) 219-2708 (Fax number)
Brett.Poirrier@la.gov

For the Agency:

Approved:

For the _____:

Secretary or Designee

Witness

Printed Name

Title

Date

Witness

For the Office of Debt Recovery:

Department of Revenue:

Secretary (or Designee)
Louisiana Department of Revenue

Witness

Date

Witness