

File No. 100246

Committee Item No. 7
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Sub - Committee: Budget and Finance

Date: April 28, 2010

Board of Supervisors Meeting

Date: _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
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OTHER

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Completed by: Andrea S. Ausberry

Date Friday, April 23, 2010

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Permits the Bureau of Delinquent Revenue to Assign Accounts Receivable with a Value of
2 \$10,000 or Less to a Collection Agency.]

3 **Ordinance amending Section 10.39-1 of the Administrative Code to increase the cap on**
4 **accounts receivable that the Bureau of Delinquent Revenue may assign to a collection**
5 **agency from \$4,000 to accounts with a fair market value of \$10,000.**

6 NOTE: Additions are single-underline italics Times New Roman;
7 deletions are ~~strike-through italics Times New Roman~~.
8 Board amendment additions are double-underlined;
9 Board amendment deletions are ~~strikethrough-normal~~.

9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. The San Francisco Administrative Code is hereby amended by amending Section
11 10.39-1 to read as follows:

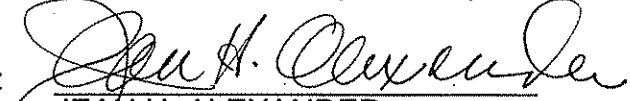
12 **SEC. 10.39-1. ASSIGNMENT OF ACCOUNTS FOR PURPOSES OF COLLECTION.**

13 Upon recommendation of the Bureau of Delinquent Revenue Collection, delinquent
14 accounts may be assigned for purposes of collection by the Board of Supervisors by
15 resolution pursuant to the provisions of Sections 26220, 26221 and 26222 of Government
16 Code of the State of California. Notwithstanding the foregoing, the Board of Supervisors
17 hereby authorizes the Bureau of Delinquent Revenue Director, with the approval of the Tax
18 Collector and Treasurer, to assign any account receivable that was transferred to it pursuant
19 to this Article, to a duly licensed collection agency for collection when the ~~amount outstanding~~
20 ~~on the account is \$4,000 or less~~ Director determines that the fair market value of the account
21 (regardless of its face value) is less than or equal to Ten Thousand Dollars (\$10,000). The Bureau of
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Delinquent Revenue Director is authorized to make any and all contracts on behalf of the City and County of San Francisco that are necessary to carry out the terms of this Section.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
JEAN H. ALEXANDER
Deputy City Attorney

Item 7
File 10-0246

Department(s):
Treasurer/Tax Collector's Office

EXECUTIVE SUMMARY

Legislative Objective

- The proposed ordinance would amend Section 10.39-1 of the City's Administrative Code to increase the cap on accounts receivable that the Bureau of Delinquent Revenue may assign to a collection agency from \$4,000 to accounts with a fair market value of \$10,000.

Legal Mandates

- Section 10.38 of the City's Administrative Code requires all City and County departments, except the Public Utilities Commission (PUC), Airport, Port and Human Services Agency, to refer their delinquent accounts receivables of over \$300 that remain uncollected for over 90 days, to the Tax Collector's Bureau of Delinquent Revenue (BDR).
- In accordance with Section 10.39-1 of the Administrative Code, the Board of Supervisors previously authorized the Director of BDR, upon approval of the Tax Collector and Treasurer, to assign any delinquent account that was transferred to BDR, to a duly licensed collection agency for collection when the amount outstanding on the account is \$4,000 or less.

Key Points

- Under the proposed ordinance, BDR would be able to refer delinquent accounts receivables to outside collection agencies, without writing down the face value, when BDR determines that the "fair market value" of the obligation is \$10,000 or less and the long-overdue delinquent account is uncollectable.

Fiscal Impacts

- The March of 2010 BDR quarterly report identifies 447,388 delinquent accounts worth \$431,156,636, or an average of \$964 per account. However, BDR quarterly reports do not include the number or value of delinquent account receivables referred to outside collection agencies.
- BDR collected an average of \$17,193,310 annually on delinquent accounts between FY 2004-2005 and FY 2008-2009. In comparison, the City's contracted outside collection agency collected an average of \$243,702 annually during that same five-year period.
- Based on a recent Request for Proposal process, BDR anticipates entering into two new contracts for outside collection agency services. If the proposed ordinance is approved, BDR estimates that additional, albeit unknown revenues might be realized by the City.

Recommendations

- Request that the Treasurer/Tax Collector's Office include information on the number and value of the City delinquent accounts receivables referred to outside collection agencies in future quarterly reports submitted to the Board of Supervisors.
- Approve the proposed ordinance.

MANDATE STATEMENT AND BACKGROUND

Existing Legal Requirements

Section 10.38 of the City's Administrative Code requires all City and County departments, except the Public Utilities Commission (PUC), Airport, Port and Human Services Agency, to refer their delinquent accounts of over \$300 that remain uncollected for over 90 days, to the Tax Collector's Bureau of Delinquent Revenue (BDR). Every account transferred to BDR must identify the (a) name of the person indebted to the City and County, (b) nature of the indebtedness, (c) amount billed, (d) record of contacts by the referring department, and (e) funding source to be credited for the monies owed.

Section 10.39 of the City's Administrative Code provides that BDR shall be responsible for the collection of all claims for monies due the City and County of San Francisco, except for claims assigned by the Board of Supervisors for collection to a State licensed collection agency. In accordance with the existing Section 10.39-1 of the City's Administrative Code, the Board of Supervisors previously authorized the Director of the Bureau of Delinquent Revenue (BDR), upon approval of the Tax Collector and Treasurer, to assign any delinquent accounts receivable that was transferred to BDR to a duly licensed collection agency for collection when the amount outstanding on the account is \$4,000 or less¹. The Director of BDR is also authorized to enter into all contracts on behalf of the City and County of San Francisco that are necessary to perform this function.

Section 10.40 of the City's Administrative Code provides that BDR may, with the approval of the Controller and consent of the department submitting the claim, reduce or abandon any claims submitted to BDR. Section 10.40-1 also authorizes BDR to collect reasonable attorney fees, collection fees and other costs incurred in collecting claims for money owed to the City and to add such collection costs to the original charge to the debtor. Section 10.42 provides that BDR shall make quarterly reports to the Board of Supervisors showing the total number of claims submitted to BDR during the preceding quarter, and the amount collected on such claims.

DETAILS OF PROPOSED LEGISLATION

Under the proposed ordinance, Section 10.39-1 of the City's Administrative Code would be amended to increase the cap on delinquent accounts that the Tax Collector's Bureau of Delinquent Revenue may assign to a collection agency from \$4,000 or less to accounts that the Director of BDR determines have a fair market value² (regardless of the account's face value³) of \$10,000 or less.

¹ In 2000, the Board of Supervisors approved increasing the threshold from the previous \$2,500 or less to the current \$4,000 or less for delinquent accounts referred to outside collection agencies.

² According to Ms. Pauline Marx, Chief Assistant Treasurer, the fair market value is the amount that the Treasurer/Tax Collector estimates is recoverable on a specific delinquent account.

³ According to Ms. Marx, the face value is the amount of the specific delinquent account, as billed by the City department.

Under the current provisions of the City's Administrative Code, BDR is prohibited from referring delinquent accounts with face values that are greater than \$4,000 to outside collection agencies. Currently, BDR only refers delinquent accounts to an outside collection agency if BDR has received no collections on the delinquent account for over two years. However, according to Mr. George Putris, Tax Administrator for the Office of the Treasurer/Tax Collector, many of the delinquent accounts that have face values greater than \$4,000 can be extremely difficult for the Tax Collector's Office to recover any revenues. Mr. Putris notes that these delinquent accounts could result in potential additional recovery of revenue, if they were referred to an outside collection agency.

For example, Mr. Putris notes that a now-deceased person may owe San Francisco General Hospital (SFGH) \$100,000; after 90 days, SFGH will transfer this delinquent account to BDR for potential collection. If BDR is unable to locate any assets in California⁴ for the deceased person that owes \$100,000, that obligation may be virtually worthless for the City to pursue, yet the Tax Collector's Office cannot currently refer this delinquent account to an outside collection agency without writing down the face value of the delinquent obligation to \$4,000. However, if the Tax Collector writes down this \$100,000 obligation to \$4,000 and then refers it to an outside collection agency, the potential financial recovery by the outside collection agency, and ultimately the City, is significantly reduced to \$4,000 or less.

In contrast to the existing provisions of the Administrative Code, which authorizes BDR to refer delinquent accounts receivable to outside collection agencies if the face value of delinquent accounts receivable is \$4,000 or less, under the proposed ordinance, BDR would be able to refer delinquent accounts receivables to outside collection agencies, without writing down the face value, when BDR determines that the "fair market value" of the City delinquent accounts receivable is \$10,000 or less. In other words, based on the \$100,000 delinquent account example above, the amount of the specific delinquent account, as billed by the City department, would remain at \$100,000, but BDR after unsuccessfully recovering any revenues for the City on this account, would estimate the amount likely to be recovered as \$10,000 or less, prior to referring the entire \$100,000 delinquent account to an outside collection agency.

FISCAL ANALYSIS

BDR Uses Workorder and Commission Agreements with Departments

As shown in Table 1 below, BDR has entered into either (a) workorder agreements, in which BDR directly hires and assigns staff to specific City departments delinquent accounts and then charges that department for BDR's direct salary, fringe benefits, overhead and related costs, or (b) commission-based agreements, in which BDR charges specific City departments a flat 25 percent commission based on the amount of delinquent account collections recovered.

⁴ Although BDR is not restricted to searching only assets in California, Ms. Marx advises that the Treasurer/Tax Collector's Office does not have sufficient resources to generally search out-of-state for additional assets.

Table 1: Bureau of Delinquent Revenue (BDR) Agreements with Various City and County Departments and Agencies

Department	Work Order	Commissions – 25%
City Planning		X
Building Inspections		X
Parking and Traffic		X
Emergency Communications	X	
Ethics Commissions		X
SFFD – Ambulance		X
Fire Prevention Alarms		X
Housing Authority		X
Laguna Honda Hospital	X	
Mayor's Office of Community Development		X
Police Department		X
San Francisco General Hospital	X	
San Francisco Redevelopment Agency		X
Superior Court: Traffic citations		X
Criminal Fines and Fees	X	
Probation fines and fees	X	
Water Department		X
San Francisco Events		X

According to Ms. Marx, it is generally more cost-effective for the higher volume delinquent account departments, such as San Francisco General Hospital, Laguna Honda Hospital, and the Superior Court to have workorder agreements with BDR. For workorder accounts, 100 percent of the revenues collected are credited back to the charging department. For commission accounts, after BDR deducts their 25 percent commission, the remaining 75 percent of the revenues collected are credited back to the charging department.

Based on the above-noted workorders and commissions, BDR currently has 14 FTE collection staff and two FTE collection supervisors assigned to delinquent department accounts. In FY 2009-2010, BDR anticipates receiving \$1,100,000 in commissions and \$3,017,000 in workorders from other City departments to collect delinquent revenues that are owed to the City.

BDR Submits Quarterly Reports on Activities to the Board of Supervisors

As noted above, Section 10.42 of the Administrative Code requires BDR to submit quarterly reports to the Board of Supervisors identifying the total number of claims submitted to BDR during the preceding quarter, and the amount collected on such claims. The Attachment, provided by Ms. Marx, shows the most recent March of 2010 BDR quarterly report, which identifies 447,388 delinquent BDR accounts at the beginning of the quarter, worth \$431,156,636, or an average of \$964 per account. The Attachment also identifies:

- Additional accounts transferred from City departments to BDR (18,211 accounts worth \$29,011,745 or an average of \$1,593);
- Accounts collected by BDR (10,491 accounts worth \$3,199,717 or an average of \$305);

- Accrued interest of \$905 from delinquent false alarm accounts, as all other department accounts are interest-free;
- Accounts which resulted in direct payments to individual City departments (686 accounts worth \$1,619,961 or an average of \$2,361);
- Uncollectible accounts, such as bankruptcies, indigent population on welfare/food stamps, out-of-country without insurance, etc, which are deemed to have zero potential recovery (3,539 accounts worth \$12,069,090 or an average of \$3,410); and the resulting
- Ending balance of \$443,280,518 of delinquent accounts.

The Budget and Legislative Analyst notes that the quarterly reports do not identify either the number or value of the accounts that are referred to outside collection agencies. Therefore, the Budget and Legislative Analyst recommends that the Treasurer/Tax Collector's Office include such information in future quarterly reports submitted to the Board of Supervisors. According to Ms. Margarita Rodriguez, Director of BDR, during the last quarter of 2009, BDR referred 11,843 accounts with a total value of \$8,487,370, or an average of \$717 per account.

Outside Agency Accounts and Collections

According to Ms. Marx, based on a competitive Request for Proposal (RFP) process in 2004, the Treasurer/Tax Collector's Office entered into a five-year agreement, from July 1, 2004 through June 30, 2009 with Medi-Credit – The Outsource Group (Medi-Credit) to provide outside collection services for delinquent accounts receivables referred from BDR. The agreement was amended in 2009, to extend the agreement for one additional year, through June 30, 2010. This Medi-Credit agreement was not subject to Board of Supervisors approval because it extends less than ten years, with expenditures of less than \$10,000,000. Ms. Marx notes that 99 percent of the accounts referred to the collection agency are San Francisco General Hospital, Laguna Honda Hospital and the Fire Department's ambulance delinquent accounts.

As shown in Table 2 below, Medi-Credit collected a total of \$1,218,519 during the five-year period from FY 2004-2005 through FY 2008-2009, or an average of \$243,702 annually. Under the existing Medi-Credit agreement, Medi-Credit receives 20 percent of the revenue collections received by the City, or as shown in Table 2 below, an average of \$48,741 per year.

Table 2: Medi-Credit Collections from FY 2004-2005 Through FY 2008-2009

Fiscal Year	Amount Collected	Number of Accounts	Average Value Per Account	Commissions Paid to Medi-Credit Based on 20% of Amount Collected
2004-2005	\$377,219	1,443	\$261.41	\$ 75,443.80
2005-2006	\$328,790	1,958	\$167.92	\$ 65,758.00
2006-2007	\$136,817	2,091	\$65.43	\$ 27,363.40
2007-2008	\$238,529	1,885	\$126.54	\$ 47,705.80
2008-2009	\$137,164	1,022	\$134.21	\$ 27,432.80
Total	\$ 1,218,519	8,399		\$ 243,703.80
Average Per Year	\$243,702			\$ 48,740.76

According to Mr. David Augustine, Policy and Programs Manager in the Treasurer/Tax Collector's Office, a new RFP for outside collection services was issued in January of 2010. Eight firms responded and four qualified firms were selected to make presentations to the Tax Collector. Mr. Augustine advises that Tax Collector's Office anticipates selecting two firms by May 14, 2010, as outside collection agencies to attempt to collect delinquent accounts receivables for BDR.

Comparison of BDR with Outside Collection Agency

As compared with the annual average of \$243,702 of delinquent accounts receivables collected by Medi-Credit, as shown in Table 3 below, BDR collected an average of \$17,193,310 annually during the same five-year period from FY 2004-2005 through FY 2008-2009.

**Table 3: Bureau of Delinquent Revenue (BDR) Collections
From FY 2004-2005 Through FY 2008-2009**

Fiscal Year	Amount Collected
2004-2005	\$12,537,899
2005-2006	14,905,889
2006-2007	17,792,005
2007-2008	20,275,072
2008-2009	20,455,683
Total	\$85,966,548
Five Year Average	\$17,193,310

Mr. Augustine advises that overall, BDR has an average revenue recovery rate of approximately 35 percent as compared to approximately three percent recovery by the outside collection agency. However, Mr. Augustine advises that the higher collection rate and revenue recovery for BDR is warranted because before a delinquent account is referred to an outside collection agency, on average each delinquent account holder receives 12 phone calls and is sent six to seven letters from both the charging departments and BDR.

Determination of Fair Market Value

Under the proposed ordinance, BDR would be able to assign delinquent accounts receivables to a collection agency with a fair market value of \$10,000 or less, rather than the existing face value limit of \$4,000 or less per delinquent account receivable. If the proposed ordinance is approved, the Director of BDR would be responsible for determining the fair market value of the delinquent account, based on whether the debtor has been located, the debtor's ability to pay and potential third party liability (e.g., insurance), before referring the account to an outside agency. Ms. Marx advises that the proposed \$10,000 threshold amount was based on the actual average face value on the accounts which are currently written down to \$4,000, before they are forwarded to an outside collection agency.

Estimated Increased Collections

Mr. Augustine notes that the proposed ordinance is not anticipated to result in significant increases in revenues. Rather, Mr. Augustine advises that the primary purpose of the proposed ordinance is to allow BDR staff to pursue those delinquent accounts that have the greatest potential of recovering revenues for the City. At the same time, increasing the threshold from \$4,000 to \$10,000 for those long-standing delinquent accounts receivables that are referred to outside collection agencies may result in additional, albeit unknown revenues for the City. BDR is unable to estimate the amount of such additional revenues which might be realized by the City.

RECOMMENDATIONS

1. Request that the Treasurer/Tax Collector's Office include information on the number and value of the City delinquent accounts receivables referred to outside collection agencies in future quarterly reports submitted to the Board of Supervisors.
2. Approve the proposed ordinance.

