

BUSINESS DEBT COLLECTION

One of the key problems facing all businesses is collections--getting paid can be especially problematic for small businesses that depend on consistent cash flow. The ultimate redress for collecting a bad business debt is the court system which is often slow, inefficient and expensive. It is the alternative of last resort. What follows are some tips on effective debt collection techniques for business debts. Please note that consumer debts must be treated differently because of such laws as the Fair Debt Collection Practices Act. There are rules and limitations for consumer debt collection that must be followed that are outside the scope of this article.

Telephone Collections. The first line of attack when you are having trouble getting paid is telephone collection efforts. Here are some guidelines:

1. **Get the name of the person in charge of paying invoices. Try to talk to him or her directly.** If you can't talk to that person, be sure to leave the message with a live person, and ask the person taking the message when the responsible person can likely be reached. Although some people disagree, we also recommend telling the person who takes the message why you are calling, as long as you are polite. It often encourages the right person to call you back so as not to alert the work force that their company is not paying its vendors.
2. **Be chatty and sympathetic.** Collection efforts seldom work when you are angry or indignant. Guilt works far better. If you humanize yourself and let the person understand that you know that you are both just trying to do your jobs, you may go the front of the line of vendors getting paid.
3. **Get a firm commitment.** Assurances from accounts payable that you will be paid "soon" or by the "end of the month" won't do. **Tell them you need a specific date.** If you are told the payment is going to be mailed out today or tomorrow, tell the accounts payable person that he or she need not bother; you have someone who will be in the neighborhood anyway, and you will have them come by to pick a up a check
4. **Remind the company of your contract.** If you have a written agreement, remind accounts payable personnel of their company's contractual obligations.

Follow-up Practices. Assume that your telephone efforts have yielded a specific commitment, but the company has reneged on the commitment to pay. You now have to decide on the most effective way to turn up the pressure. Here are some follow-up practices:

1. **Outline the punitive steps you will be forced to take.** This will vary, depending on the leverage you have against the company. If you are performing ongoing work, tell

them you will have to stop work. If you deliver products, tell them you will stop delivery. Remind them of your contractual rights to terminate. Tell them you will have to e-mail their superiors. Do all of this in a calm, professional manner, and with regret.

2. **Frequent phone calls.** Assign someone to make frequent, even daily follow-up phone calls. Explain your own cash flow problems. They may get tired of hearing from you. The old saw about the squeaky wheel getting the grease can be true.
3. **Personal visits.** Especially if the amount overdue is sizeable, consider a personal visit. Ask for an appointment. If you get the run around for an appointment, just show up and be prepared to wait. Most companies will be too polite to throw you out, and if they do, you will know what you are really up against. Either way, go with plenty of backup justifying the invoices. The company who owes the debt may try to find something to complain about.

Legal Action. When none of the above has worked, it is time to resort to collection efforts of a more formal legal nature. This is the point at which you may want to get legal counsel involved, especially if the amount owed is large. It is also the time to begin thinking about how much the debtor can afford to pay you, as opposed to how much the company rightfully owes you. Here are some points to consider:

1. **It may be time to take the punitive actions you have threatened before. Your contract may permit you to terminate it for the debtor's breach, which would entitle you to suspend performance. This should be done in writing.**
2. **Have your legal counsel send a formal demand letter to the debtor.** You may now start incurring collection costs, but it lets the debtor know you have hired a lawyer and are seriously thinking about filing suit.
3. **Find out what you can about the debtor's ability to pay.** If you are not getting paid because the debtor can't pay, **consider a workout over time, or a reduction in the amount owed for immediate payment.** Sometimes this is preferable to an uncollectable judgment.
4. **File suit.** If the amount owed is small, you may be able to pursue your claim yourself in small claims court. If not, you will probably have to retain counsel. The question then becomes whether or not you retain contingent fee counsel, or a debt collection service, and give up a portion of your claim. The more questionable the status of the debtor, the more likely it is that you will want to take this step.

Finally, realize that **most people don't like dealing with collections.** Many people have a terrible time asking for money, even if it is justly owed. If you are of that psychology, realize it and make sure there is somebody else at your business who is not burdened with that problem. **You need someone who is enterprising and relentless. Someone who never gives up. It may mean your survival.**