

Section X

FRAUD COLLECTION

Occasionally state checks/warrants are forged and cashed. Agencies are responsible to identify and process forged items for collection in a timely manner. Agencies process forged items for collection through Treasury. Treasury processes the forged items through its disbursement bank which then processes them for collection through other banks as appropriate.

Treasury tracks forged checks/warrants using a database program and classifies forgeries in the following categories:

- Altered Items
- Counterfeit Items
- Deceased Payee
- Forged Endorsement
- Improper or Lack of Endorsement

Because time is of the essence, the issuing agency must act as soon as possible after discovery of these items in order to expedite recovery of funds. The Uniform Commercial Code (UCC) governs the collection processes for checks including liability for forged items.

The costs associated with collection efforts on forged checks/warrants occasionally outweigh the monies that are collected. These costs include agency staff time to research items, prepare necessary affidavits, and tracking outstanding collection items, in addition to bank and Treasury fees and Treasury staff time. Agencies should consider adopting a threshold for collection on checks/warrants whereby items below the threshold are written off. Before adopting a policy or threshold for writing off losses on forged checks/warrants with no collection effort, agencies should verify that there are no statutory or program requirements that necessitate such collection efforts.

Altered Check/Warrant

Typically, checks/warrants are altered either by changing the payee's name, the amount of the check, or both. Typically checks/warrants are altered using erasers, tape, chemical solvents, or knives to lift the information. Safety paper and toner grip are security features designed to make any alterations apparent to someone cashing the check/warrant.

To process altered items, send the following to Treasury:

1. Original check/warrant plus one additional copy of both the front and back. If the original is not available, send an authentic reproduction (plus one copy) of the front and back of the check/warrant. To order a reproduction, send a Check Photo Request form (Form C-7) to the Banking Section.
2. Original plus one additional copy of notarized Affidavit of Altered Item (Form C-16). Each check/warrant sent for processing must be accompanied by a separate affidavit.
3. Original plus one additional copy of Fraud Collection Claimant Information sheet (Form C-17).
4. Two copies of agency's record of check/warrant issuance.
5. A cover letter which includes:
 - a. Agency's name and address
 - b. Contact person's name and telephone number
 - c. Agency's account number to be credited when collection is effected

Counterfeit Check/Warrant

A counterfeit check/warrant is an “unauthorized” check/warrant which was cashed as an original. Counterfeit items can be produced a number of ways. Color photocopies are common. The check is paid multiple times and is caught through the reconciliation process. Checks can be scanned and modified using a scanner, a desktop publishing application, and a color printer. The payee and amount are typically changed. If magnetic ink is used by the forger, the bank will not need to strip the bottom of the check/warrant

MICR line. If you receive checks back, you should inspect those items that are stripped to verify immediately if you have a counterfeit item. Forgers can also order check stock from a variety of check providers using the agency's account number. These counterfeits probably won't look like State checks but may be processed by the banks nonetheless.

Counterfeit checks/warrants are covered under the UCCs as “*unauthorized signatures*”. If the counterfeit items are discovered after the *midnight deadline* (as discussed later in this chapter), they should be processed for collection as a forgery where *ordinary care* was not exercised by the person or bank accepting the check/warrant. Therefore, send the following to Treasury:

1. Counterfeit check/warrant plus one additional copy of both the front and back. If the original is not available, send an authentic reproduction (plus one copy) of the front and back of the check/warrant. To order a reproduction, send a Check Photo Request form (Form C-7) to the Banking Section.
2. Notarized original and one copy of Affidavit of Forgery (Form C-18). Each check/warrant sent for processing must be accompanied by a separate affidavit.
3. Original plus one additional copy of Fraud Collection Claimant Information form Form C-17).
4. A cover letter which includes:
 - a. Agency's name and address
 - b. Contact person's name and telephone number
 - c. Agency's account number to be credited when collection is effected
 - d. Original payee's name and amount

Deceased Payee

If a check/warrant is cashed after the payee's death, and it is 180 days or less since the item was negotiated, send the following to Treasury:

1. Original check/warrant plus one additional copy of both the front and back. If the original item is not available, send an authentic reproduction (plus one copy) of both the front and back of the check/warrant. To order a reproduction, send a Check Photo Request form (Form C-7) to the Banking Section.
2. Original plus one additional copy of Fraud Collection Claimant Information form (Form C-17).
3. Two copies of death certificate.
4. A cover letter which includes:
 - a. Agency's name and address
 - b. Contact person's name and telephone number
 - c. Agency's account number to be credited when collection is effected

Forged Check/Warrant

A forged check is one with an endorsement made without the express, implied, or apparent authority of the person whose name is signed. To determine if the item is a forgery that can be returned for collection:

1. It must be 18 months or less since the item was returned to the agency.
2. The item cannot be altered.
3. The endorsement must be in the name of the payee.

Send the following information to Treasury:

1. Original check/warrant plus one additional copy of both the front and back. If the original is not available, send an authentic reproduction (plus one copy) of both the front and back of check/warrant. To order a

reproduction, send a Check Photo Request form (Form C-7) to the Banking Section.

2. Notarized original Affidavit of Forged Endorsement (Form C-19) plus one copy. Each check/warrant sent for processing must be accompanied by a separate affidavit.
3. Original plus one additional copy of Fraud Collection Claimant Information sheet (Form C-17).
4. One copy of each Handwriting Exemplar form (Form C-20a & C-20b).
5. A cover letter which includes:
 - a. Agency's name and address
 - b. Contact person's name and telephone number
 - c. Agency's account number to be credited when collection is effected

Lack of Endorsement

Checks/warrants lacking endorsements are ones with no endorsement or ones not endorsed by all payees (when there are two or more payees). It must be no more than 180 days since the item was negotiated. Send the following to Treasury:

1. Original check/warrant plus one additional copy of both the front and back. If the original is not available, send an authentic reproduction (plus one copy) of the front and back of check/warrant. To order a reproduction, send a Check Photo Request form (Form C-7) to the Banking Section.
2. Original plus one additional copy of Fraud Collection Claimant Information sheet (Form C-17).
3. A cover letter which includes:
 - a. Agency's name and address
 - b. Contact person's name and telephone number
 - c. Agency's account number to be credited when collection is effected

Time Periods for Reporting Forgeries

The UCCs speak to contributory negligence on forged signatures or alterations of negotiable instruments. If an agency fails to exercise “*ordinary care*” in the issuance of a check/warrant and this contributes to an alteration of the check or someone forges the signature, the State cannot assess payment against a person who, in good faith, pays the check/warrant. *Ordinary care* means observance of commercial standards prevailing in the area and applies to all parties (including all banks) in the check/warrant issuance and collection process.

Under the UCCs, customers must discover and report any alteration on the face or back of the check/warrant within 180 days after the statement or item is made available. Since Treasury receives daily presentments from the disbursement bank, the 180 day period should be considered to start on the day the item was negotiated. In addition, if an agency doesn’t detect and report the alteration within 30 days, the agency is precluded from asserting against the bank for any subsequent items passed by the same wrongdoer. Altered items will generally be passed back up the collection chain to the person or bank that initially cashed the check, since they should have caught the alteration.

Unauthorized signatures (counterfeit) checks/warrants present a unique problem, since the banks have no responsibility to verify maker signatures on state checks/warrants drawn on Treasury. Counterfeit items must be discovered and reported within the “*midnight deadline*” for final settlement in order for Treasury to return the checks to the disbursement bank. The midnight deadline means that the checks/warrants must be returned by midnight of the next business day following the receipt of the item. If counterfeit items are discovered after the *midnight deadline*, they should be processed for collection using the Affidavit of Forgery (Form C-18) citing the appropriate reason why the person/bank accepting the check should not have accepted it.

Agencies that do not truncate checks should scan the returned checks daily for unusual items. Counterfeit items will generally be a different color and/or

size and will often have a stripped MICR line (another MICR line taped to the bottom of the check).

Under the UCCs, agencies have 18 months to discover and report unauthorized endorsements. Banks often maintain record availability for one year. Therefore, agencies should strive to discover and report unauthorized endorsements within one year of the time the check/warrant was negotiated.

Controls Over Check Issuance

Since the UCCs specifically address ordinary care and contributory negligence, it is absolutely essential that agencies exercise due diligence in its control over the check issuance process.

Treasury has implemented a custom single state check stock which contains numerous security features designed to deter alteration and replication. In addition, all banks have been notified of this check design which places a burden of *ordinary care* upon them to know what a valid State check looks like.

Treasury has issued policy 02.18.02 which can be found in Section II of this manual. This policy specifies required controls for agency issuance of checks. Further, agencies should be familiar with and comply with the internal control procedures outlined in Chapter 10 of the DAS Oregon Administrative Manual (OAM).

If you have any questions, please contact:

Banking Section
(503) 378-4633