



***Statewide Financial Services
Expenditure Authority Document***
(Last Updated May 8, 2006)

EXPENDITURE AUTHORITY AND RESPONSIBILITIES

INTRODUCTION

State employees (public officials) whose job require them to review any number of opinions of the attorney general or state court cases have observed the phrase "...state agencies are creatures of statute." The phrase is used to underscore the concept that **all authority** of an agency is dictated by constitution and statute – by law. However, technically, it is not the inanimate "agency" that solicits input, evaluates facts, decides a course of action, and expends funds for an agency purpose. Those processes are contemplated by the people within each state agency – public officials, and their judgment is reflected in the agency's course of action. Therefore, it is the public official at the helm who is ultimately responsible for ensuring decisions for the agency fall within the authority granted by statute. While an agency may face penalties for a failure of action, an agency will not go to jail – but a public official might. Public officials may face both criminal and civil consequences for their action, or inaction.

The following is a compendium of constitutional and statutory references, along with statewide policies. These citations with their brief explanations identify various courses and constraints regarding a public official's authority to approve and expend public funds, the accounting and reporting of said funds, the liability for wrongful payments, collecting and depositing state funds, and so on. Most of a public official's actions relating to public funds have distinct statutory processes and obligations, along with resulting consequences for a failure to adhere to those standards.

It is hoped that this compendium will serve as a reference whenever public officials have questions about their legal obligations. Periodic review of this information will help keep public officials safely within the legal and ethical boundaries prescribed by law.

EXPENDITURE AUTHORITY AND RESPONSIBILITIES

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EXPENDITURE AUTHORITY AND RESPONSIBILITIES

I. Expenditure Authority

- A. Oregon Constitution, Article IX, Section 4** states that no money may be withdrawn from the state treasury unless in pursuance of appropriations made by law. An appropriation is a law that authorizes an agency or state officer to spend money for a particular purpose. <http://landru.leg.state.or.us/orcons/>
- B. Allotments (ORS 291.232 to 291.263, as amended by Section 10, Chapter 837, 2005 Oregon Laws –SB 1101):** This set of statutes deals with allotments. No appropriated moneys may be expended without an allotment from the Department of Administrative Services (DAS), except for certain expenditures from dedicated funds, revolving funds and trust funds. <http://www.leg.state.or.us/ors/291.html>

II. Budgetary Accounting and Reporting

- A.** The biennial operating budget is the legal compliance standard against which operations are evaluated. The biennial budget approved by the Legislature and budget actions approved by the Emergency Board must be formally recorded in the accounting records of each agency. *Expenditures may not exceed appropriations.*
- **Budget Adoption and Reporting (OAM 20.10.00.PO/PR):** Agencies are required to record expenditure limitations and appropriations in the Oregon Budget Information Tracking System (ORBITS). The Statewide Audit and Budget Reporting (SABR) section of DAS enters limitations and appropriations into the Relational Statewide Accounting and Reporting System (R*STARS). Agencies are responsible for ensuring that budget amounts recorded in ORBITS and R*STARS are accurate. Changes to the legislatively adopted budget amounts are also recorded in R*STARS. R*STARS controls expenditures against budgets as established in approved appropriation bills. Each item on an approved appropriation bill is assigned an appropriation number.

Agencies are also required to record in ORBITS estimates of expected revenues for all funding sources (general, federal, lottery, and other).

Unexpended appropriations at the end of each biennium are available for subsequent expenditure to the extent that liabilities have been incurred at June 30, provided payment of liabilities is made during the succeeding six month period of July 1 through December 31. If an obligation represents an encumbrance on June 30 at the end of a biennium (rather than a liability), the obligation cannot be paid from the biennium ended June 30. Furthermore, the encumbrance must be canceled and re-established in the

new biennium by the close of month 13. Any remaining unexpended appropriations lapse December 31 following the end of the biennium, except for appropriations related to capital construction.

<http://www.das.state.or.us/DAS/SCD/SARS/policies/oam/20.10.00.PO.pdf>

- **Encumbrances (OAM 20.20.00.PO/PR):** Encumbrance accounting provides early evidence of spending commitments and significantly reduces the risk to over- obligate appropriations and other spending plans. Encumbrance accounting helps agency managers to:

1. Monitor and control commitments to expend funds.
2. Forecast expenditures and cash needs.
3. Ensure and demonstrate compliance with spending plans, appropriated budgets, and other legal requirements.
4. Maximize investment earnings through accounting control of available funds.
5. Avoid duplicate orders and similar errors in the purchasing process.
6. Report spending commitments consistently across all agencies in accordance with generally accepted accounting principles and other reporting requirements.

<http://www.das.state.or.us/DAS/SCD/SARS/policies/oam/20.20.00.PO.pdf>

<http://www.das.state.or.us/DAS/SCD/SARS/policies/oam/20.20.00.PR.pdf>

- **Expenditure and Interfund Transfer Recognition (OAM 20.30.00.PO/PR):** Except in the case of capital construction/acquisition contracts, continuing contracts and contested claims, the recognition of expenditures for budgetary purposes should be in the biennium during which a liability is incurred. In accordance with state statute, unexpended limitations and unexpended General Fund appropriations for the biennium ended June 30 are closed December 31 of each odd-numbered year, except for capital construction/acquisition contracts, continuing contracts and contested claims. Thus, expenditures may be recorded in the prior biennium during the six month period July 1 through December 31, provided a liability was incurred by June 30 (goods or services must have been received by calendar date June 30).

Interfund transfers to other funds or other agencies involving the General Fund (when at least one side of the transfer transaction involves the General Fund) are recognized in the biennium during which the movement of cash occurs.

<http://www.das.state.or.us/DAS/SCD/SARS/policies/oam/20.30.00.PO.pdf>

<http://www.das.state.or.us/DAS/SCD/SARS/policies/oam/20.30.00.PR.pdf>

- **Reduction of Expense (OAM 20.40.00.PO):** The legislatively approved budget is intended to be the maximum amount needed to meet program requirements. Reduction of expense should not be used to sidestep this

limit. Recurring expenditures should be included in the budget, even when paid by outside entities (such as travel expenditures).

Non-recurring or special circumstances may make items suitable for reduction of expense. Federal regulation or state law may require an agency to use reduction of expense. It should not be used merely for convenience. Reduction of expense may not exceed actual expenditures. The reduction must occur within the same budgetary period. If not, it is recorded as revenue.

The following examples of when reduction of expense **may** be suitable should be considered as a guide rather than a complete list:

1. A refund of an overpayment or a purchase rebate.
2. Reimbursement from another state agency when it records an expenditure (e.g., job rotation).
3. Amounts collected or reimbursements for hosting special events, including conferences and training.
4. Reimbursement from state programs that are intended to reduce expenditures (e.g., reimbursements associated with the Employer-at-Injury Program and the Preferred Worker Program).
5. Any other receipt that meets the intent of this policy as determined by the agency.

<http://www.das.state.or.us/DAS/SCD/SARS/policies/oam/20.40.00.PO.pdf>

- **Revenue and Interfund Transfer Recognition (OAM 20.50.00.PO):** Recognition of General Fund revenue and transfers from other funds or agencies involving the General Fund for budgetary purposes should be on a cash basis, except in the case of capital construction/acquisition contracts. Revenue received by the calendar date June 30 at the end of a biennium must be recorded in the biennium in which it was received. If cash receipts through June 30 are not deposited or posted to the accounting records until July, those cash receipts should be recorded in the biennium in which they were received. For General Fund revenues, it is essential that cash basis recognition be applied consistently since revenue figures are used to calculate and certify the “kicker” each biennium.

Transfers from other funds involving the General Fund are recorded in the biennium in which the cash is received. If General Fund revenues have been received by June 30 at the end of a biennium, but are not transferred to other funds until the next biennium, the transfer should be recorded in the next biennium since this is the biennium in which the cash was transferred (this is the case when at least one side of the transfer transaction involves the General Fund). Both sides of a transfer transaction (to and from) must be recorded in the same biennium by both agencies or funds involved.

When revenue related to a capital project is received, it should be recorded in the biennium for which the capital construction/acquisition budget exists (this applies to all funding sources, not just to the General Fund). This is an exception to cash basis budgetary accounting applicable to General Fund revenue not used for capital construction/acquisition.

Reductions of revenue should be recorded in the same biennium in which the original revenue was recorded, as long as the biennium is still open (this applies to all funding sources, not just to the General Fund). If the biennium is closed, record the transaction as an expenditure. Reductions of revenue should not exceed actual revenue.

<http://www.das.state.or.us/DAS/SCD/SARS/policies/oam/20.50.00.PO.pdf>

III. Approving and Accounting for Expenditure Claims

A. Legal Requirements (ORS 293.295): A claim for payment from any moneys in the State Treasury may not be paid unless:

- The claim is supported by the approval of the state agency that incurred the obligation or made the expenditure on which the claim is based;
- Provision for payment of the claim is made by law and appropriation;
- The obligation or expenditure on which the claim is based is authorized as provided by law; and
- The claim otherwise satisfies requirements as provided by law.

<http://www.leg.state.or.us/ors/293.html>

B. Accounting Requirements

- **Documentation Requirements (OAM 10.15.00.PO):** All expenditure transactions must be supported by appropriate documentation. Documentary evidence includes vendor invoices, receiving records and other supporting documents sufficient to provide evidence of the following:
 1. The authenticity of the transaction.
 2. The purpose or reason for the transaction. (A written explanation should be included, if the purpose or reason for the expenditure is not readily apparent).
 3. The vendor involved in the transaction.
 4. That the transaction was properly authorized.

The documentary evidence must also support the information entered into the Statewide Financial Management Application for these key data fields:

D23 Fund and/or PCA/Index; general ledger account; comptroller object (or agency comptroller object); transaction dollar amount; and vendor name and number, if applicable.

<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/10.15.00.PO.pdf>

- **Expenditures – Accountability and Forms of Approval (OAM 10.40.00.PO/PR):** This policy (PO) sets accountability standards for agency heads and employees with delegated commitment and expenditure authority and defines accountability and responsibility for all employees within a given risk environment. The procedure (PR) specifically defines the various forms of approval used to authorize state obligations.
<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/10.40.00.PO.pdf>
<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/10.40.00.PR.pdf>
 - **Accounting for Expenses, Expenditures and Payables (OAM 15.40.00.PO/PR):** Expenses, expenditures and payables must be accounted for in accordance with generally accepted accounting principles (GAAP). Agencies are responsible for analyzing the nature of their transactions and determining the appropriate basis of accounting, depending on the fund classification (governmental funds, proprietary funds or fiduciary funds), as well as in the government-wide financial statements. Agencies are responsible to pay vendors and contractors in a timely manner. When paying past due invoices, payment of interest charges shall not exceed limits established by statute.
<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/15.40.00.PO.pdf>
<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/15.40.00.PR.pdf>
- C. Claims Disapproved by DAS (ORS 293.300):** Except for claims based on obligations incurred or expenditures made by the Legislative Assembly and its officers and committees, the courts and their officers and committees, the Secretary of State and State Treasurer in the performance of the functions of their constitutional offices and the Public Defense Services Commission, a claim for payment from any moneys in the State Treasury may not be paid if the claim is disapproved by DAS for violating the provisions of ORS 293.295 above. <http://www.leg.state.or.us/ors/293.html>
- D. Administrative Restrictions Issued by DAS:** Expenditure restrictions are developed by DAS to support the Governor's overall effort to control the cost of government and restore citizen confidence that public funds are being spent responsibly on essential work. Most of the responsibility, authority, and accountability for scrutinizing and approving or denying restricted spending requests rests with agency directors.
http://egov.oregon.gov/DAS/administrative_restrictions.shtml
- E. Designation of Officer by State Agency to Approve Disbursements (ORS 293.330):** All boards, commissions, officers and agency heads authorized to approve disbursements for indebtedness or expenses may designate the

secretary, or some officer of each board or commission, or some representative or deputy of such officer or head of department who is under bond to the State of Oregon to approve those disbursements, provided that the indebtedness or expense has been previously authorized by such board, commission, officer or head of department. A statement designating such secretary, officer, representative or deputy together with a sample of the designated person's signature shall be filed with DAS.
<http://www.leg.state.or.us/ors/293.html>

IV. Liability for Losses, Penalties, Criminal Provisions and Withholding Salary

A. Effect of Wrongful Payment (ORS 293.485): When a wrongful payment is made, it does not relieve the political body issuing the instrument from liability to the counterparty. The officer or person making such wrongful payment and the sureties on the official bond of the officer or person, if any, shall be responsible for the full amount of the loss occasioned by the wrongful payment.
<http://www.leg.state.or.us/ors/293.html>

B. Penalties (ORS 291.990, as amended by Section 1, Chapter 121, Oregon Laws 2005 – HB 2260): Any person who makes or orders or votes to make any expenditure in violation of any of the provisions of ORS 279A.140, 279A.280, 279B.270, 283.020, 283.110, 283.140 to 283.160 and 283.305 to 283.390, 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260, 291.307, 292.220 and 292.230 commits a violation, and shall, upon conviction, be punished by a fine of not less than \$500 nor more than \$3,000.
<http://www.leg.state.or.us/ors/291.html>

C. Criminal Provision for Official Misconduct (ORS 162.415): A public servant commits the crime of official misconduct in the first degree if with intent to obtain a benefit or to harm another:

- The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or
- The public servant knowingly performs an act constituting an unauthorized exercise in official duties.

Official misconduct in the first degree is a Class A misdemeanor.
<http://www.leg.state.or.us/ors/162.html>

D. Withholding Salary of State Official or Employee for Failure to Settle Accounts (ORS 293.515): In the discharge of the constitutional duties of Auditor of Public Accounts, the Secretary of State may certify to the Governor the failure of any state official or state employee:

- To settle accounts or render such statements as may be required with respect to the custody or disposition of public funds or other state property; or
- To correct any major delinquencies, deficiencies, improper procedures or errors appearing in audit reports within a reasonable time.

Within 90 days of certification to the Governor, the state official or employee responsible shall notify the Secretary of State and the Governor, in writing, of the measures to be taken to settle accounts or to correct the delinquencies, deficiencies, improper procedures or errors in the audit reports.

The Governor may issue an order withholding the payment of the salary of the official or employee until the failure is corrected. (Such order shall be entered only after notice, opportunity to be heard and hearing pursuant to the provisions of ORS Chapter 183.)

These provisions do not apply to classified employees under the State Personnel Relations Law, the Legislative Assembly, members of the judiciary or any statewide elected official. <http://www.leg.state.or.us/ors/293.html>

V. Collection of Moneys to be Expended; Methods of Transfer

- A. Moneys to be Turned Over to State Treasurer Not Later Than One Business Day After Receipt (ORS 293.265):** It is the duty of the officer or other person or agent collecting, receiving, in possession of, or having the control of any state money or other funds, contributions or donations collected or received by, and to be expended by or on behalf of the state under the approval or supervision of any state officer, board, commission, corporation, institution, department or other state organization, recognized by the laws of this state to turn over all such moneys to the State Treasurer not later than one business day after collection or receipt. However, it may be possible to comply with this requirement by using a reasonable, longer period for the transmittal of funds if the state organization documents and maintains in its official files, and submits a copy of such documentation to the Division of Audits of the Secretary of State for review, information that a valid business reason exists for using a longer transmittal period and that the period is no longer than necessary to satisfy that business reason. <http://www.leg.state.or.us/ors/293.html>
- B. Disbursement of Moneys (ORS 293.275):** Disbursements of the moneys transferred or deposited pursuant to ORS 293.265 shall be made only on warrants issued in payment of authorized claims and expenses, as provided by law. <http://www.leg.state.or.us/ors/293.html>
- C. Interagency Transfers/Intergovernmental Payments (ORS 293.285):** Notwithstanding the provisions of ORS 293.275 or any other statute relating to interagency payments, the Oregon Department of Administrative Services may

effect interagency payments for goods and services by transfer from the funds, accounts or appropriations of the agency receiving such goods or services, to the funds and accounts of the agency supplying such goods or services.

The State Treasurer and DAS may agree upon procedures to effect intergovernmental payments between the state and local units of government by transfer to the funds of the local unit of government entitled to receive them from the funds, accounts or appropriations from which the distribution is to be made. <http://www.leg.state.or.us/ors/293.html>

- D. Determination of Appropriate Methods of Transfer; Establishment of Funds and Accounts (ORS 291.001):** Unless the context or a specific provision of law provides otherwise, when a law of this state requires that a payment or transfer of moneys be made by warrant, check or electronic funds transfer the payment or transfer may be made by warrant, check, electronic funds transfer or an accounting entry in the appropriate records of any affected state agency. DAS shall determine which method of payment or transfer is most appropriate.

The State Treasurer, in consultation with DAS, may establish, whenever necessary to the administration of the accounting, budget preparation, cash management, financial management, financial reporting or similar laws of this state, subaccounts, accounts and funds in addition to or within the subaccounts, accounts and funds created by the Oregon Constitution and statutes. <http://www.leg.state.or.us/ors/291.html>

VI. Prompt Payment for Goods and Services

- A. Prompt payment requirements** for the state of Oregon are categorized based on vendor type. There are three vendor types:
- Public contractors
 - Private vendors
 - Other agencies
- B. Public Contractors (ORS 279.435 was renumbered March 1, 2005 as ORS 279C.570. ORS 279C.570 was amended by Section 33, Chapter 103, Oregon Laws 2005 – HB 2214):** It is the policy of the state of Oregon that all payments due on a public contract shall be paid promptly. Payments to the contractor shall include interest on the progress payment due the contractor (not including retainage). Interest shall commence 30 days after receipt of the invoice from the contractor or 15 days after the payment is approved by the agency, whichever is the earlier date.

The rate of interest charged to the contracting agency on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after receipt of the invoice from the contractor or 15 days after the payment is approved by the contracting agency, whichever is the earlier date, but the rate of interest may not exceed 30 percent.

Interest shall be paid automatically when payments become overdue. The contracting agency shall document, calculate and pay any interest due when payment is made on the principal. Interest payments shall accompany payment of net due on public contracts. The contracting agency may not require the contractor to petition, invoice, bill or wait additional days to receive interest due. <http://www.leg.state.or.us/ors/279c.html>

C. Private Vendors (ORS 293.462): It is the policy of the state of Oregon to pay any overdue account charges incurred by state agencies which do not promptly pay for goods and services provided by private businesses. A claim is overdue if it has not been paid within 45 days from the latest of the following dates:

- The date of the receipt of the invoice;
- The date of the initial billing statement if no invoice is received; or
- The date the claim is made certain by agreement of the parties or by operation of law.

The overdue account charges to be paid under this section shall be the same as the usual overdue account charges to the general clientele of the vendor. Moneys appropriated from the General Fund to an agency or the establishment of maximum limits for expenditures of an agency authorized to procure goods or services from private businesses shall be used to pay overdue account charges incidental to procurement of the goods or services at the rate of 2/3 of 1 percent per month, but not more than 8 percent per annum on overdue claims. <http://www.leg.state.or.us/ors/293.html>

D. Other Agencies (OAM 35.60.10 PO/PR): The goal of each state agency shall be the timely production and distribution of its billings and the timely payment of billings received from other agencies. A payer agency shall process the billing invoices applying business practices that assure effective and prompt review, authorization, and payment. Where payer has no questions or concerns with the billing, payment shall be made within 30 days of the billing date. Where there are billing disputes, the undisputed portion of the bill shall be paid within 30 days of the billing date. Agencies experiencing difficulty in meeting the 30-day requirement should institute a policy of paying the billing first with a post-payment review and correction process.

<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/35.60.10.PO.pdf>

<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/35.60.10.PR.pdf>

See OAM 35.60.20.PO/PR for progressive actions:

<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/35.60.20.PO.pdf>
<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/35.60.20.PR.pdf>

See OAM 35.60.30.PO/PR for dispute resolution:

<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/35.60.30.PO.pdf>
<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/35.60.30.PR.pdf>

VII. Risk Management

- A. DAS to Manage Risk Programs (ORS 278.405):** DAS shall direct and manage all risk management and insurance programs, including broker services, of state government, except for employee benefit insurance programs under ORS chapter 243. Agencies may not expend funds for broker services unless authorized by statute or by DAS.
<http://www.leg.state.or.us/ors/278.html>
- B. Purchase of Commercial Insurance (ORS 278.415):** No state agency shall purchase insurance, other than for employee benefits, except as authorized by DAS, unless an agency has specific legislated authority and limitation.
<http://www.leg.state.or.us/ors/278.html>
- C. Payment of Damages for Tort Liability (ORS 278.120; Liability Self-Insurance Policy 125-7-201; Employee Liability Policy 125-7-202):** DAS has exclusive authority to manage claims against the state, and against the officers, employees and agents of the state, that arise under the provisions of ORS 30.260 to 30.300, the Oregon tort claims act.
<http://www.leg.state.or.us/ors/278.html>
<http://www.das.state.or.us/DAS/SSD/Risk/LiabilityTableofcontents.shtml>
<http://www.das.state.or.us/DAS/SSD/Risk/EmpLiabPolicy.shtml>
- D. State Property Reporting and Restoration (ORS 278.011 and 278.050; Property Self-Insurance Policy 125-7-101):** DAS has authority to pay for reported losses covered by the Property Insurance policy. Agencies may only pay to replace property losses not covered by Self-Insurance.
<http://www.leg.state.or.us/ors/278.html>
<http://www.das.state.or.us/DAS/SSD/Risk/PropertyPolicy.shtml>
- E. Losses Due to Dishonest Employees (Employee Dishonest Policy 125-7-203):** This policy sets forth the roles and responsibilities related to employee “dishonesty” losses and the various coverage amounts, limits and exclusions. The services described in this policy are provided to state agencies by the Department of Administrative Services, Risk Management Division, with the assistance of the Secretary of State, Audits Division and the Department of Justice. <http://www.das.state.or.us/DAS/SSD/Risk/docs/EMPDIS96.DOC>

- F. Blanket Fidelity Bonds for State Officers and Personnel (ORS 291.011):** DAS may require a fidelity bond of any officer, employee or agent of the department or of any other state officer, employee or agent who has charge of, handles or has access to any money or property belonging to the state or in which the state may have an interest and who is not otherwise required by law to give a fidelity bond. DAS may procure or provide and may administer a blanket bond covering any or all officers and employees of the state as it deems adequate to protect the interest of the state. <http://www.leg.state.or.us/ors/291.html>

VIII. Fiscal Responsibilities of DAS; Supervision of Accounting and Systems

- A. Fiscal Responsibilities of DAS; Delegation of Fiscal Functions (ORS 291.015):** DAS, under the direction of the Governor and as provided by law, is responsible generally for the administration and coordination of internal accounting and other affairs, controls, procedures and services of a fiscal nature of the state government and agencies thereof. Except as otherwise provided by law, DAS may authorize subject to its control the decentralized performance by state agencies of fiscal functions. <http://www.leg.state.or.us/ors/291.html>
- B. DAS to Supervise State Agency Accounting (ORS 293.590):** DAS shall direct and control the accounting for all the fiscal affairs of state government and shall provide for the maintenance of accounting records, including accounts stated in summary or in detail, for those fiscal affairs. The department is responsible for establishing and maintaining systems of accounting for state government and agencies thereof. The principles, standards and related requirements of those systems of accounting shall be as prescribed by DAS. <http://www.leg.state.or.us/ors/293.html>
- C. Supervision of Data Processing Equipment for Accounting System (ORS 293.595):** DAS shall control and supervise the acquisition, installation and use of all electronic or automatic data processing equipment to be used primarily for the purposes of the accounting records and system referred to in ORS 293.590. The adequacy and capacity of that equipment for purposes of the performance of constitutional functions of the Secretary of State as Auditor of Public Accounts shall be as determined by and under the control of the Secretary of State. <http://www.leg.state.or.us/ors/293.html>

IX. Investigating Loss of Public Funds or Property

- A. When a Public Officer is Involved (ORS 297.120):** When a state agency sustains a loss of public funds or property under circumstances involving a public officer (defined as any elected or appointed state officer, including members of boards and commissions) who is entrusted with the custody of the funds or property or who is charged with the duty to account for the funds or property, the agency (defined as any state department, division, bureau or

other agency or body headed by an elected or appointed state officer or member of a board or commission) shall report the loss in writing to the Division of Audits.

Within 30 days of discovering the loss of public funds or property, the Division of Audits may investigate the loss and prepare a report respecting the accountability of the public officer for the loss. The report shall be presented to the Governor. <http://www.leg.state.or.us/ors/297.html>

- B. Government Waste Hotline (ORS 177.170):** The Secretary of State shall establish a toll-free telephone line that is available to public employees and members of the public for the purpose of reporting waste, inefficiency or abuse by state agencies, state employees or persons under contract with state agencies. <http://www.leg.state.or.us/ors/177.html>

The toll-free telephone line established under this section shall be known as the Government Waste Hotline. The Secretary of State shall prepare written notices that explain the purpose of the Government Waste Hotline. The notices shall prominently display the telephone number for the Government Waste Hotline. The notice shall be posted in all state offices. If a state office is open to members of the public, the notice shall be posted in a place where the public is most likely to see the notice.

<http://www.sos.state.or.us/audits/fraud/index.html>

Fraud, Waste & Abuse Government Waste Hotline

800-336-8218 (toll free)

Salem area phone 503-986-2255

Salem area fax 503-378-6767

[Report Fraud Online](#)

- C. Confidentiality (ORS 177.180):** Notwithstanding any other provision of law, the identity of any person making a report through the Government Waste Hotline shall remain confidential. <http://www.leg.state.or.us/ors/177.html>

X. Code of Ethics

- A. Prohibited Actions (ORS 244.040):** No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated. <http://www.leg.state.or.us/ors/244.html>

Additional information can be found at the Government Standards and Practices Commission website. The website contains links to the agency's statutes, rules, and opinions, along with information on how to request an opinion or file a complaint. <http://www.gspc.state.or.us/GSPC/index.shtml>

XI. Restrictions on Political Campaigning by Public Employees

- A. Solicitation of public employees; activities of public employees during working hours (ORS 260.432):** No person shall attempt to, or actually, coerce, command or require a public employee to influence or give money, service or other thing of value to promote or oppose any political committee or to promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder.

No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of a public employee to express personal political views. <http://www.leg.state.or.us/ors/260.html>

- B. Secretary of State's Elections Division** publishes *Restrictions on Political Campaigning by Public Employees*, which provides a good overview of many of the issues that confront public officials and agencies in connection with political campaigns. <http://www.sos.state.or.us/elections/Publications/pub.htm>
- C. Department of Justice** also provides advice to state officers concerning restrictions imposed by law with regard to public comment on measures before the voters. Agency officials are encouraged to contact their legal counsel or Secretary of State if their agency is considering public comment regarding matters that are before the voters.