

Oregon

O.R.S. § 180.750

180.750. Definitions

As used in ORS 180.750 to 180.785:

(1) “Claim” means a request or demand made to a public agency, including a request or demand made pursuant to a contract, that seeks moneys, property, services or benefits that will be provided in whole or in part by a public body, whether directly or through reimbursement of another public agency that provides the moneys, property, services or benefits.

(2) “False claim” means a claim that:

(a) Contains, or is based on, false or fraudulent information;

(b) Contains any statement or representation that is untrue in whole or part; or

(c) Omits information that could have a material effect on the value, validity or authenticity of the claim.

(3) “Public agency” means:

(a) A public body;

(b) The United States or a federal agency;

(c) A person who contracts with a public body; or

(d) A person other than an individual who receives a grant from a public body.

(4) “Public body” has the meaning given that term in ORS 174.109.

O.R.S. § 180.755

180.755. Prohibited acts

(1) A person may not:

(a) Present for payment or approval, or cause to be presented for payment or approval, a claim that the person knows is a false claim.

(b) In the course of presenting a claim for payment or approval, make or use, or cause to be made or used, a record or statement that the person knows to contain, or to be based on, false or fraudulent information.

(c) Agree or conspire with other persons to present for payment or approval a claim that the person knows is a false claim.

(d) Deliver, or cause to be delivered, property to a public agency in an amount the person knows is less than the amount for which the person receives a certificate or receipt.

(e) Make or deliver a document certifying receipt of property used by a public agency, or intended to be used by a public agency, that the person knows contains false or fraudulent information.

(f) Buy property of a public agency from an officer or employee of a public agency if the person knows that the officer or employee is not authorized to sell the property.

(g) Receive property of a public agency from an officer or employee of the public agency as a pledge of an obligation or debt if the person knows that the officer or employee is not authorized to pledge the property.

(h) Make or use, or cause to be made or used, a false or fraudulent statement to conceal, avoid or decrease an obligation to pay or transmit moneys or property to a public agency if the person knows that the statement is false or fraudulent.

(i) Fail to disclose a false claim that benefits the person within a reasonable time after discovering that the false claim has been presented or submitted for payment or approval.

(2) For the purposes of this section, a person has knowledge that a claim, record, statement, document or information is false or fraudulent if the person:

(a) Has actual knowledge of the false or fraudulent nature of the claim, record, statement, document or information;

(b) Acts in deliberate ignorance of the false or fraudulent nature of the claim, record, statement, document or information; or

(c) Acts in reckless disregard of the false or fraudulent nature of the claim, record, statement, document or information.

(3) In an action under ORS 180.760, the Attorney General need not prove that a person specifically intended to defraud a public agency to establish that a person acted with knowledge as described in subsection (2) of this section.

O.R.S. § 180.760

180.760. Civil action for violation; remedies

(1) The Attorney General may bring a civil action in the name of the State of Oregon against a person who violates ORS 180.755. The Attorney General may bring the action in the Circuit Court for Marion County or in a circuit court in any county in which part of the conduct that constituted the violation took place.

(2) Repayment of or intent to repay any amounts obtained by a person as a result of a violation of ORS 180.755 is not a defense in an action under this section.

(3) The fact that a public agency has not paid any amounts to a person as a result of a violation of ORS 180.755 or has not suffered any injury by reason of a violation of ORS 180.755, is not a defense in an action under this section.

(4)(a) A court shall award to the state all damages arising from a violation of ORS 180.755.

(b) In addition to damages awarded under paragraph (a) of this subsection, the court shall award to the state a penalty equal to the greater of:

(A) An amount not less than \$10,000 and not greater than \$50,000 for each violation; or

(B) An amount equal to twice the amount of damages incurred for each violation.

(c) The court may mitigate an award of a penalty under paragraph (b) of this subsection based on any fine or penalty assessed against the defendant for substantially the same acts or omissions in a judgment under the federal False Claims Act, 31 U.S.C. 3729, et seq., as in effect on January 1, 2010, or under the federal Civil Monetary Penalty Law, 42 U.S.C. 1320a-7a, as in effect on January 1, 2010, that is no longer subject to appeal.

(5) If a court finds that an act or omission of an individual on behalf of a corporation or other legal entity constitutes a violation of ORS 180.755, the court may find that both the individual and the legal entity violated ORS 180.755 and impose a separate penalty under subsection (4) of this section against both the individual and the legal entity.

(6) Notwithstanding subsections (4) and (5) of this section, if the state prevails in an action under this section, the court may not award a penalty under subsection (4) of this section if:

(a) The defendant provided the Attorney General with all information known to the defendant about the violation within 30 days after the defendant first acquired the information;

(b) The defendant fully cooperated with the Attorney General in the investigation of the violation; and

(c) At the time the defendant provided the Attorney General with information about the violation, an investigation, court proceeding or administrative action related to the violation had not been commenced.

(7) For the purpose of determining the amount of damages under this section:

(a) The value of property, services or benefits obtained by a person who makes a claim may be established based on the market value of property, services or benefits at the time and place of receipt or delivery of the property, services or benefits.

(b) If the market value of property, services or benefits at the time and place of receipt or delivery of the property, services or benefits cannot be reasonably ascertained, the value of the property, services or benefits may be established based on the replacement cost of the property, services or benefits.

(c) If a written instrument has no readily ascertainable market value, the value of the instrument may be established based on the value determined as provided in ORS 164.115 (2).

(d) The Attorney General may establish damages using statistical or sampling methodology, or any other system that reasonably estimates damages incurred, without separately proving the damages incurred from each violation of ORS 180.755.

(8) The court may award reasonable attorney fees and costs of investigation, preparation and litigation to the state if the state prevails in an action under this section. The court may award reasonable attorney fees and costs of investigation, preparation and litigation to a defendant who prevails in an action under this section if the court determines that the Attorney General had no objectively reasonable basis for bringing the action or no reasonable basis for appealing an adverse decision of the trial court.

O.R.S. § 180.765

180.765. Statute of limitation

An action under ORS 180.760 must be brought within five years after the date that the Attorney General discovers the violation of ORS 180.755. In no event may an action under ORS 180.760 be brought more than 10 years after the date on which the violation is committed.

O.R.S. § 180.770

180.770. Estoppel

(1) Any judgment that is no longer subject to appeal and that was rendered in favor of the state or of the United States in a criminal proceeding based on conduct that gives rise to an action under ORS 180.760, whether based on a verdict after trial or upon a plea of guilty or nolo contendere, estops a defendant in an action under ORS 180.760 from denying the elements of the offense for which the defendant was convicted.

(2) A criminal or administrative action need not be brought against a person as a condition to bringing an action against the person under ORS 180.760.

O.R.S. § 180.775

180.775. Investigative demand

(1) If it appears to the Attorney General that a person has possession, custody or control of any information, document or other materials that are relevant to an investigation of a violation of ORS 180.755, or that could lead to the discovery of relevant information in an investigation of a violation of ORS 180.755, the Attorney General may cause an investigative demand to be served upon the person. The investigative demand may require the person:

(a) To appear and testify under oath at the time and place stated in the investigative demand;

(b) To answer written interrogatories; or

(c) To produce relevant documentary material or physical evidence for examination at the time and place stated in the investigative demand.

(2) An investigative demand under this section shall be served in the manner provided by ORS 646.622 and may be enforced in the manner provided by ORS 646.626.

O.R.S. § 180.777

180.777. Confidentiality of material, answers to interrogatories, and transcripts of oral testimony in possession of Attorney General

(1) While in the possession of the Attorney General, any documentary material, answers to interrogatories and transcripts of oral testimony shall be held in confidence and not be disclosed to any person except:

(a) The person providing the material or answers;

(b) The representative or attorney of the person providing the material or answers;

(c) Persons employed by the Attorney General;

(d) Officials of the United States or any state who are authorized to enforce federal or state false claims laws, including the federal False Claims Act, 31 U.S.C. 3729 to 3733, provided that prior to the disclosure the Attorney General shall obtain the written agreement of the officials to abide by the confidentiality restriction of this section; and

(e) Other persons authorized in subsection (2) of this section.

(2) Documentary material, answers to interrogatories and transcripts of oral testimony in the possession of the Attorney General may be:

(a) Used in any investigation conducted pursuant to ORS 180.750 to 180.785 or in any case or proceeding before a court or administrative agency; or

(b) Disclosed to any committee or subcommittee of the Legislative Assembly in a manner and for purposes as the Attorney General deems appropriate.

(3) Upon completion of a civil action brought under ORS 180.760, the Attorney General shall return any documents, answers and transcripts that have not passed into the control of the court through introduction into the records, to the person who provided the documents, answers or testimony, upon the person's request in writing. If no action in which documents, answers or testimony may be used has been commenced within a reasonable time after completion of the examination or analysis of all documentary material, but in no event later than four years after production of the material, the Attorney General shall, upon written request of the person who produced the material, return all documents, answers and transcripts to the person who provided them.

O.R.S. § 180.780

180.780. Distribution of recovered amounts

(1) If a judgment is entered in favor of the state under ORS 180.760, the Attorney General shall first apply amounts collected under the judgment to reimburse the state for the costs, attorney fees and expenses, including investigative costs, incurred as a result of the violation of ORS 180.755.

(2) After reimbursement under subsection (1) of this section, amounts collected under the judgment must be paid to any public agency or fund that suffered a loss by reason of the violation of ORS 180.755.

(3) Any amount remaining after distribution as provided in subsections (1) and (2) of this section must be deposited in the Department of Justice Protection and Education Revolving Account.

O.R.S. § 180.785

180.785. Remedy not exclusive

The remedies provided under ORS 180.760 are in addition to any other remedy, civil or criminal, that may be available under any other provision of law. Claims based on remedies available under other provisions of law may be joined in an action under ORS 180.760.