



Construction Contractors Board

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State of Oregon
Tina Kotek, Governor

Zoom Meeting Call In: 1 (669) 254-5252, Meeting ID: 160 567 7275 Passcode: 065883

The meeting is accessible to the public by telephone, video conference, or in-person attendance. To request video conference information, please contact Sanya Kite by email at Sanya.kite@ccb.oregon.gov at least 48 hours prior to the meeting.

DRAFT
10/7/2024

NOTICE OF PUBLIC MEETING
CCB Board Meeting
201 High St SE, Salem and Zoom Videoconference
Wednesday, October 16, 2024
8:30 a.m. – 11:30 a.m.

	Page
Meeting Called to Order	
Roll Call	
Approval of the Agenda	ACTION ITEM (pg 1)
Approval of the Minutes August 21, 2024, Board meeting.....	ACTION ITEM (pg 2)
Board Calendar:	
Next Meeting: December 4, 2024, at 8:30 am	(pg 5)
Public Comment	
Agency Reports	
1. Agency Update (Chris Huntington)	
a. Budget Report.....	(pg 6)
b. Data Dashboard	(pg 9)
2. Licensing (Dana Zeimantz)	
a. CCB Licensing Program Update	(pg 27)
3. Information Technology (Noel Magee)	
a. IT Update	(pg 28)
4. Education (Leslie Culpepper)	
a. Communication and Education Program Update	(pg 30)
5. Enforcement (Vena Swanson)	
a. Enforcement Update	(pg 31)
Old Business	
None	
New Business	
1. Enforcement Consent Agenda.....	ACTION ITEM (pg 33)
2. Annual Performance Report on Key Performance Measures (KPM).....	Non-Voting Item (pg 36)
2. Ethics Training for Board Members (Charlie Esparza, OGEC)	(pg 49)
Adjournment	

The Board may meet in executive session under authority of ORS 192.660 from time to time. The specific statutory basis for the executive session will be announced on the record prior to the commencement of the executive session. Executive sessions are closed to the public. The Board may recess the public meeting, in order to deliberate privately, under authority of ORS 192.690(1). The public meeting will then reconvene for the purpose of decision-making. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting; contact Sanya Kite by email at Sanya.Kite@ccb.oregon.gov or by phone at (503) 934-2217 to make arrangements.

**MINUTES OF THE August 21, 2024
CONSTRUCTION CONTRACTORS BOARD MEETING
PUBLIC SESSION**

The Construction Contractors Board (CCB) met on Wednesday August 21, 2024, in person at 201 High St SE, Salem OR and via Zoom teleconference.

ATTENDEES:

Board members appearing: Chair Dylan Bochler, Vice Chair Eric Olsen, Rosa Martinez, Deb Flagan, Brent Landels (8:42), Sean VanGordon (8:37 am), Nate Gerding, Van White

Board members absent: Abel Carbajal

Staff: Administrator Chris Huntington, Board Secretary Sanya Kite, Education Manager Leslie Culpepper, Licensing Manager Dana Zeimantz, Enforcement Manager Vena Swanson, IT Manager Noel Magee, Human Resource Partner, Fiscal Analyst Sean Riesterer, Heather Parker and Assistant Attorney General Catriona McCracken

Staff members absent: N/A

MEETING CALLED TO ORDER:

Chair Bochler called the meeting to order at 8:30 am.

APPROVAL OF AGENDA:

MOTION: Van White moved to approve the agenda as presented. Eric Olsen seconded the motion.

BOARD ACTION: 6 Ayes; Motion to approve carried unanimously.

APPROVAL OF MINUTES:

MOTION: Nate Gerding moved to approve the minutes of June 26, 2024. Rosa Martinez seconded the motion.

BOARD ACTION: 6 Ayes; Motion to approve carried unanimously.

DATE OF NEXT SCHEDULED MEETING: The next meeting is scheduled for October 16, 2024, in person from the 1st floor Hearing Room at 201 High Street SE, Salem, Oregon and via Zoom teleconference. Question about Ethics training, Administrator Chris Huntington will confirm and added it will add about an hour to the regular scheduled time.

AGENCY REPORTS:

Chris Huntington, Agency Administrator reported about Business Services unit as it is stabilizing, have staff returned from leave, made permanent hires. Looking at opportunities for efficiencies and budget savings, new application process is creating some significant efficiencies, outstanding hires have skill sets that allow to consolidate and reorganizing some work to other units.

Lease Update, current lease expires July 2025, we are utilizing less space and need to reduce sq/ft and cost. We do not want to move; moves are costly and disruptive, full agency move would materially disrupt progress on system replacement. Goals are to remain in place, reduce cost and align space with needs: Sub-Lease (LUBA) Update: final lease agreement still pending

Sub-lease will offset approximately 15% of rent costs, full-service lease – less administrative cost and more predictable, comparable to market and state (DAS) rates.

Reviewed Governor's Expectations, Background, specific accountability expectations and criteria.

Reviewed Budget Update: Fiscal year close still pending – delays July actuals

Reviewed Data Dashboard: Renewal rate (remember 3-month lag)- holding steady – waiting to see if fee increase has any effect.

System Replacement: New Item, system replacement status report

Purpose is to provide the board: Global view of stage gate process and update on progress and key milestones as we proceed

Recent Milestones this period: Began analysis of records for retention/destruction, Initiated an informal Quality review committee, continued system requirements documentation, Agency-wide Organizational Change Management

Next Steps: Complete DRAFT Request for Proposal (RFP); submit to DAS, continue system requirements documentation

Reviewed Agency Request Budget

Dana Zeimantz, Licensing Manager provided status on the open projects, Licensing staff continue to participate in reviewing software requirements and developing use cases for the upcoming system replacement. Top 3 reasons for customers calling Licensing are: Informational, New Application Status and Renewal. The number in each of the 3 categories have historically been about the same. To date, there has been a downward trend showing Renewal calls are 50% less than Informational calls and New Application calls are 67% less than Informational calls. We will continue to watch this trend as we believe the downward trend in New Application calls can be attributed to the new, more efficient, electronic application software. Licensing trained 3 staff members in the online renewal process, 1 additional employee in the Lead Based Paint Renovator process/data base and another employee was cross trained to image documents received at the agency. Licensing was able to rotate another employee to hybrid/remote work.

Noel Magee, IT Manager reported on ongoing projects, Generally, development work has slowed in favor of items that support the licensing system replacement process. Especially requirements development and data cleanup.

This Licensing System Replacement work continues with

1) documenting current business processes so they can be more easily configured in whichever new software is eventually chosen is a heavy lift. This activity will pay back with more time and effort savings as the project moves forward. 2) Software development to implement the retention specifications during this period although it will take some months to complete. 3) Requirements are being reviewed again by each section and IT. This will further refine and clarify what we want to achieve.

We're reporting good numbers on the Security metrics, and they are back down where we like prefer them to be.

Current Period Changes: Data Governance and retention, Reviewing the bulk of the ordinary retention data to ensure that nothing needing longer retention will be removed. Tyler Tech Application support. Support for Converge/Elavon (our online payments processor) to stop paths from being used. Follow up shows no further issues.

Leslie Culpepper, Education Manager shared:

Education Activities

- CCB 3-hour Contractor Live Class (Medford) – June 7– 60 contractors
- CCB 3-hour Contractor Webinar – June 25 – 90 contractors
- CCB 3-hour Contractor Webinar – July 17 – 76 contractors

Outreach Activities

- CCB How to Get a CCB License Webinar – June 4 – 22 pre-license candidates
- CCB How to Hire a Contractor Presentation (Spanish, Medford) – June 21 – 20 consumers
- CCB How to Get a CCB License Webinar – July 9 – 61 pre-license candidates

Outreach Update

In July, a recording of the How to Get Your CCB License webinar was posted on our website for attendees to watch. We thought this might drive down attendance in the live webinar, but in fact sign-ups in July and August was comparable. We released a Toolbox Newsletter recently (attached) and are in the process of getting our 3-hour presentation updated for classes at the end of the year. We're also currently in the process of

finalizing our schedule for the fall, getting another homeowner newsletter out, and moving forward on projects relating to updating our continuing education offerings in Spanish.

Enforcement Manager Vena Swanson reviewed field operation highlights for the different regions. Compliance file load remains about 100 per week. Working on succession training in their accounts receivable position. Dispute resolution file load is around 300 files each analyst. Project Highlights all in varying stages: License Replacement Project, Develop Training/roll out scheduled phone mediations, Mediator Handbook Creation, Mediation agreement language revision, Remote investigations, Senate bill 228- License Conditioning, Senate bill 228- Settlement Agreements, E-Warnings Pilot, Public Facing Complaints

OLD BUSINESS:

None

NEW BUSINESS:

Enforcement Consent Agenda

Motion: Chair Dylan made motion to add Consent agenda to New Business section of the agenda. Van moved to approve, Nated seconded the motion.

Board Action: 6 Ayes; Motion to approve carried unanimously.

MOTION: Chair Dylan made motion to approve the Notices of Intent and Final Orders on the Enforcement Consent Agenda. Eric Olsen seconded the motion.

BOARD ACTION: 6 Ayes; Motion to approve carried unanimously.

Agency Request Budget

Motion: Chair Dylan made motion to approve Agency Request Budget to DAS and Governor. Nate moved to approve; Van seconded the motion.

Board Action: 6 Ayes; Motion to approved carries unanimously

Annual Performance Progress Report – KPM9 – Best Practices for Boards and Commissions

Motion: Chair Dylan made motion to approve KPM9. Nate moved to approve; Van seconded the motion.

Board Action: 6 Ayes; Motion to approved carries unanimously.

Next Board Meeting October 16, 2024, with ethics training.

The meeting adjourned at 10:01 am.

2024 CCB Board Meeting Calendar		
DATE	NOTED ITEMS	LOCATION
February 21, 2024		1st Floor Hearings Room or Teleconference via ZoomGov
March 27, 2024	Special Meeting: Proposed Fee Increase	1st Floor Hearings Room or Teleconference via ZoomGov
April 24, 2024		1st Floor Hearings Room or Teleconference via ZoomGov
June 26, 2024		1st Floor Hearings Room or Teleconference via ZoomGov
August 21, 2024	KPM Best Practices Survey Finalized	1st Floor Hearings Room or Teleconference via ZoomGov
October 16, 2024	Ethics Training	1st Floor Hearings Room or Teleconference via ZoomGov
December 4, 2024		1st Floor Hearings Room or Teleconference via ZoomGov

The following dates will be reserved for potential meetings in the event that urgent matters arise requiring immediate action by the Board. Board members and the public will be notified in advance when a meeting is going to occur and whether it will be held in person (Salem) or via Zoom teleconference.

- January 24, 2024
- May 22, 2024
- July 24, 2024
- September 18, 2024

CONSTRUCTION CONTRACTORS BOARD

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Memorandum

To: Construction Contractors Board
From: Chris Huntington
Date: October 6, 2024
Subject: October Board Meeting – Budget Cover Memo (Actuals through August)

Summary

After several months of fluctuations due to factors explained below, the budget report including actuals through August has stabilized. The projection for the remainder of the 2023-2025 biennium continues to represent a somewhat conservative approach that incorporates recent changes and makes adjustments to projections based on the first 12 months of the biennium.

Background

At the June board meeting I previewed the likelihood that the collision of several factors with some unpredictable outcomes could lead to a significant amount of movement in the overall projection between June and August. These factors included:

- **Year-end-close accounting**
 - **Issue:** Workload issues (agency and DAS), processing timelines between the agency and DAS
- **Fee increase implementation (Renewals only)**
 - **Issue:** Uncertainty how the implementation of increased fees would affect renewal activity
- **New budget analyst**
 - **Issue:** Transition process associated with bringing a new approach into process
- **Fiscal year analysis**
 - **Issue:** Do 12 months of actuals prompt adjustments to base assumptions

Detailed Analysis

Following are a few notes about what has shifted and changed since the last budget report as well as explanations for some of the oddities:

- **Year-end-close:** The month of July is focused on closing out the prior fiscal year. This period can force revisions to prior months, and it can cause July to look a little odd since few costs incurred in July are paid in July. After accurately allocating all charges to the correct fiscal year some revisions were made to the June totals previously shared and July ended with a slight “credit” in S&S.
- **July Revenue:** July revenue appears abnormally low. This is due to a larger than normal General Fund transfer catching up several months of payments. The \$137K catch-up transfer had an exaggerated effect on the July revenue roll-up. License revenue for July was stable and comparable to prior and following months as well as prior year for July.
- **Projections:** We’ve made changes to the projections for revenue, personal services and S&S. These changes are based on analysis of the prior 12 months, refinements to the projection model and adjustments to the schedule for filling some positions based on recent retirements. Overall, these adjustments have had a slight positive affect on our projected ending balance and our remaining budget limitation.
 - **Note on Revenue:** The agency has made a modest increase to our revenue projection. The 1.5% increase to our revenue projection for upcoming months is about a third of what we could

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have applied based on actuals for the prior 12 months. This balanced approach is intended to incorporate actual data, while still guarding against the potential for an economic downturn.

Conclusion

Overall, the attached budget report represents some really positive news in terms of the financial stability of the organization heading into the final 9 months of the current biennium and prepping for 2025-2027 budget authorization. Our key strategic priorities have been and remain:

- Provide stable and sufficient revenue support to maintain existing service levels
- Preserve sufficient reserves to support the IT modernization

This most recent budget projection confirms that the agency is on a solid path to fulfill those goals. For virtually the first time since I arrived in 2019, the agency is showing a projection that adds to the beginning cash balance for the biennium. A stable or slightly positive fund balance is what assures service level continuity and maintains the viability of the IT modernization effort.

2023-25 Fiscal Status Report Summary

	Last Three Months			Thru August 2024 ACTUAL to DATE	REMAINING PROJECTED	TOTAL PROJECTED BI 2023-25	Authorized BUDGET (LAB)	LAB VS. PROJECTED
	JUN-24 Actuals	JUL-24 Actuals	AUG-24 Actuals					
Beginning Cash Balance				6,193,148		6,193,148		
Revenue	1,044,562	576,349	849,294	10,280,053	8,706,601	18,986,654	15,764,581	(3,222,073)
Personal Services	652,934	683,873	653,353	8,668,296	6,851,943	15,520,239	15,576,285	56,046
Services & Supplies	190,815	(191)	125,642	1,887,724	1,543,529	3,431,254	3,566,928	135,674
Capital Outlay	-	-	-	-	-	-	-	-
Expenditures	843,748	683,682	778,995	10,556,021	8,395,472	18,951,493	19,143,213	191,720
Revenue vs. Expenditures NOTE (1)	200,813	(107,333)	70,299	(275,968)	311,129	35,161		
Ending Cash Balance	5,848,723	5,846,881	5,917,179	5,917,179		6,228,308		

3-Month Contingency: \$2.37M (Currently 7.89 Months)

Proctor Info

Proctor Revenue	26,940	28,800	30,540	463,800	335,926	799,726	807,550	7,824
Total Revenue To LAB	1,071,502	605,149	879,834	10,743,853	9,042,527	19,786,380	16,572,131	(3,214,249)
Proctor Expense Recon	26,940	28,800	30,540	463,800	335,926	799,726	807,550	7,824
Total Expenditures (w/ Proctor)	870,688	712,482	809,535	11,019,821	8,731,398	19,751,219	19,950,763	199,544

NOTE (1): Agency revenue is cyclical with declines historically beginning in July and extending through December. Also, many large annual assessments are invoiced August through October. This historically leads to negative revenue vs. expenditure during this period.

CCB Statistics At-A-Glance

Rate of Renewals

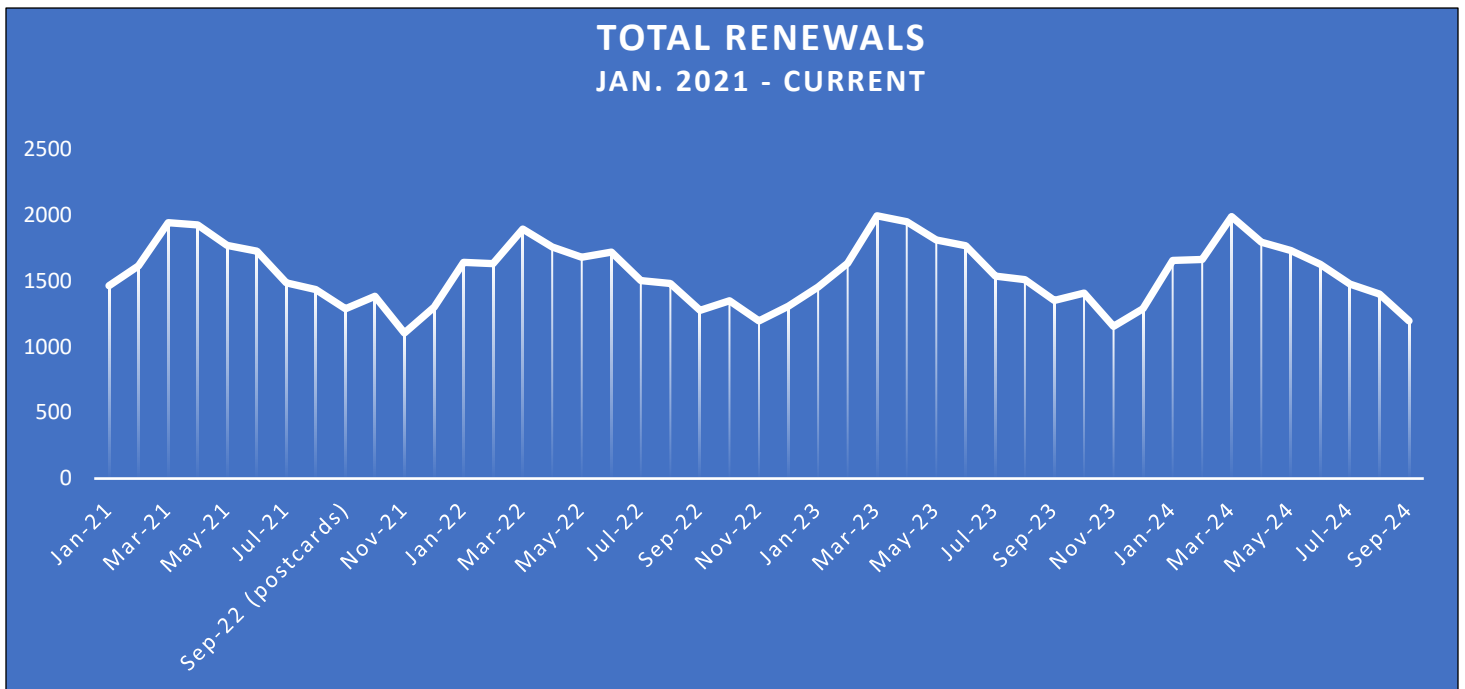
2024

Month/Yr	Expected Renewal Count	Actual Renewal Count	2024 Renewal Rate %
Jan-24	2008	1655	82.42%
Feb-24	2019	1664	82.42%
Mar-24	2401	1989	82.84%
Apr-24	2202	1794	81.47%
May-24	2186	1732	79.23%
Jun-24	2066	1627	78.75%
Jul-24	1878	1477	78.65%
Aug-24	1973	1401	71.01%
Sep-24	1691	1196	70.73%
Oct-24			#DIV/0!
Nov-24			#DIV/0!
Dec-24			#DIV/0!
Average from 2023			80.15%

2023

Month/Yr	23 Renewal Rate
Jan-23	81.06%
Feb-23	83.28%
Mar-23	81.73%
Apr-23	80.69%
May-23	79.23%
Jun-23	79.10%
Jul-23	81.32%
Aug-23	80.50%
Sep-23	78.66%
Oct-23	78.32%
Nov-23	78.29%
Dec-23	76.44%

*Approximate 2-month lag for final renewal rate.



*Includes totals from 2021 for comparison

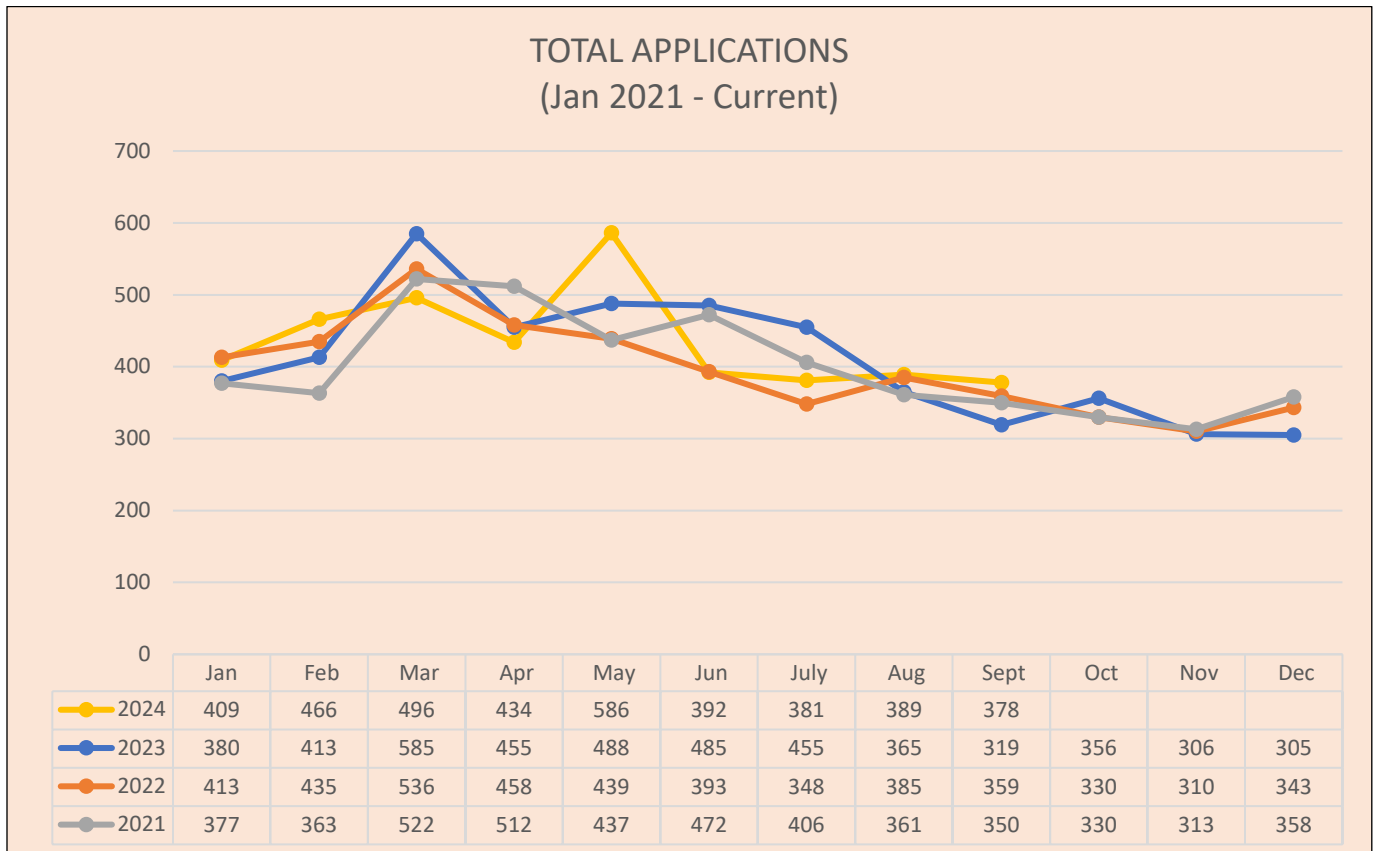
Rate of New Applications

2024

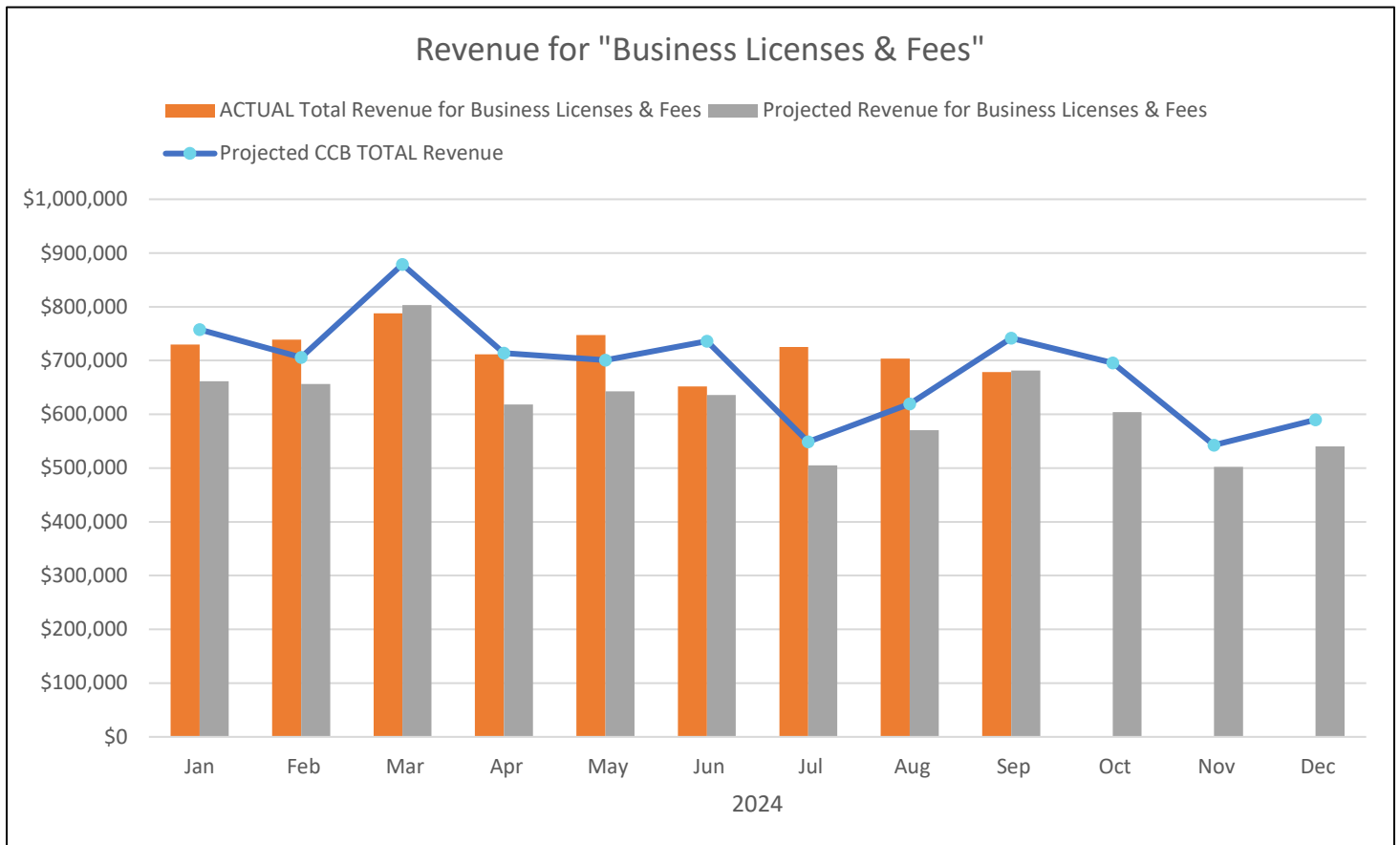
Month/Yr	New App Count
Jan-24	409
Feb-24	466
Mar-24	496
Apr-24	434
May-24	586
Jun-24	392
Jul-24	381
Aug-24	389
Sep-24	378
Oct-24	
Nov-24	
Dec-24	

2023

Month/Yr	New App Count
Jan-23	380
Feb-23	413
Mar-23	585
Apr-23	455
May-23	488
Jun-23	485
Jul-23	455
Aug-23	365
Sep-23	319
Oct-23	356
Nov-23	306
Dec-23	305



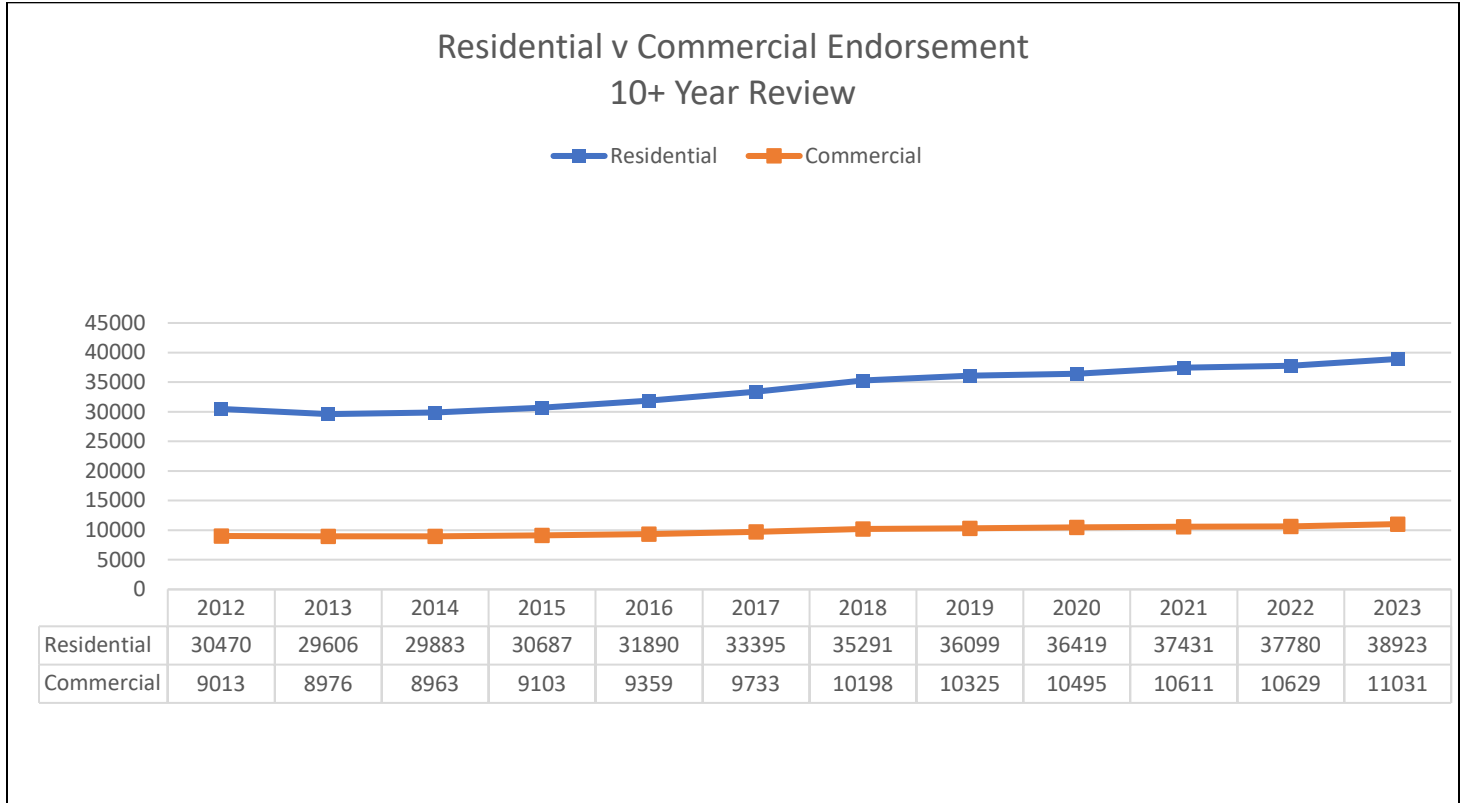
Revenue Stream of New Apps & Renewals Per Month in 2024



**These totals are pulled roughly 1.5 months behind schedule due to late renewals. Due to these factors, the totals are not definitive but are the most accurate at the time this report was created.*

Residential and Commercial Statistics, All Endorsements

	Total Residential Active + Inactive	Total Commercial Active + Inactive
	2024	
Jan	38916	11019
Feb	38916	11019
Mar	38780	10950
Apr	38331	10919
May	38568	10944
Jun	38812	10969
Jul	38883	11006
Aug	39193	11066
Sept	39409	11182
Oct	39589	11221
Nov	0	0
Dec	0	0



PROGRAM WORKLOAD

Enforcement

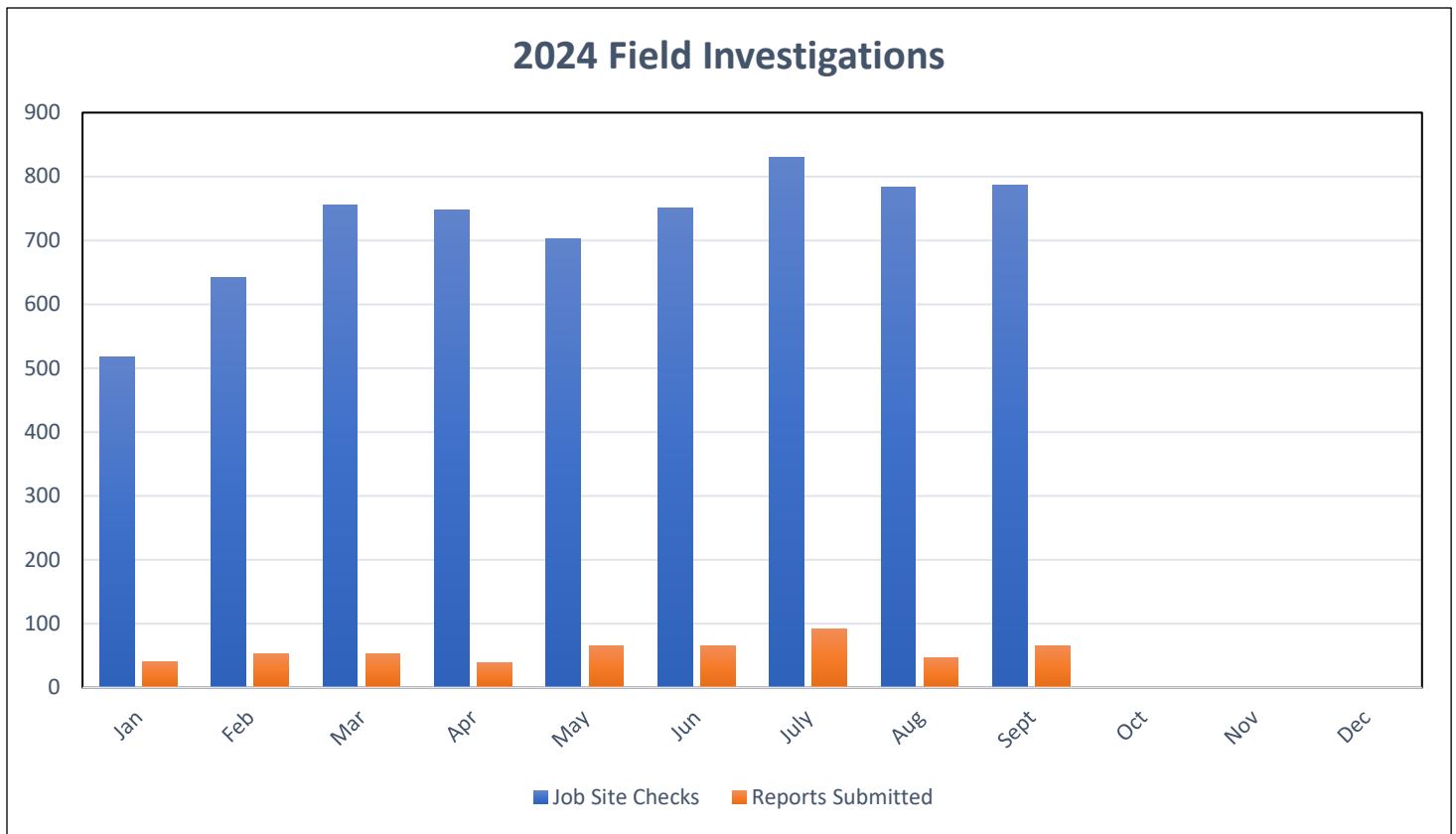
Investigation and Dispute Resolution Files Opened

Job Site Checks Performed

Month/Yr	Total
Jan-24	518
Feb-24	642
Mar-24	756
Apr-24	747
May-24	703
Jun-24	751
Jul-24	830
Aug-24	784
Sep-24	787
Oct-24	
Nov-24	
Dec-24	

Field Investigation Reports Submitted

Month/Yr	Total
Jan-24	41
Feb-24	53
Mar-24	53
Apr-24	39
May-24	65
Jun-24	65
Jul-24	92
Aug-24	47
Sep-24	66
Oct-24	
Nov-24	
Dec-24	



**There is no set target for field investigations. This area of work is highly driven by the market conditions. Monthly/Yearly stats are used to track this sections productivity and ensure adequate coverage in higher volume areas.*

Average Days to Close Compliance and Dispute Resolution Files

Compliance (Target Days to Close is 40)

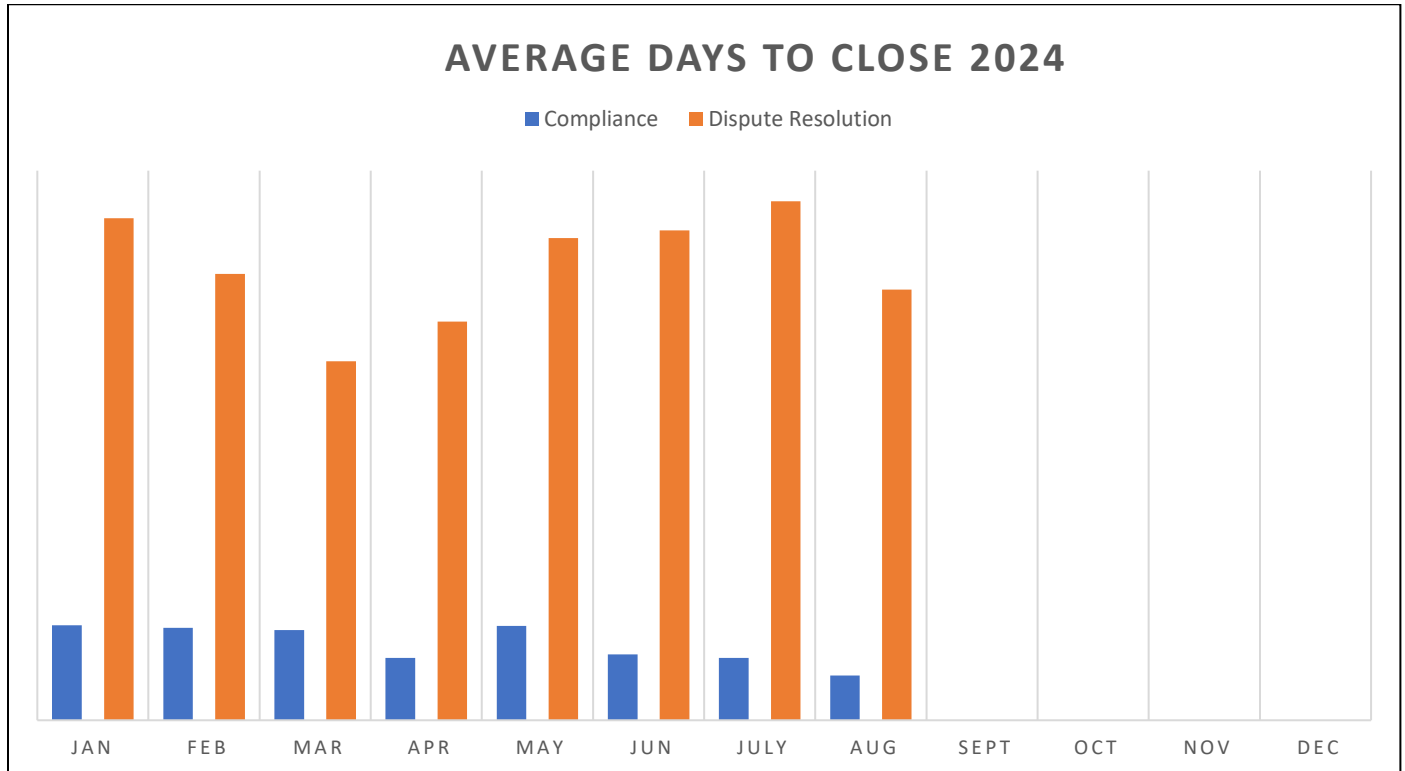
2023 Average	29.76416667
Jan-24	34.54
Feb-24	33.6
Mar-24	32.8
Apr-24	22.66
May-24	34.34
Jun-24	24
Jul-24	22.74
Aug-24	16.27
Sep-24	
Oct-24	
Nov-24	
Dec-24	
2024 Average	18.4125

*Approximately 2 month lag for final closure dates.

Dispute Resolution (Target Days to Close is 155)

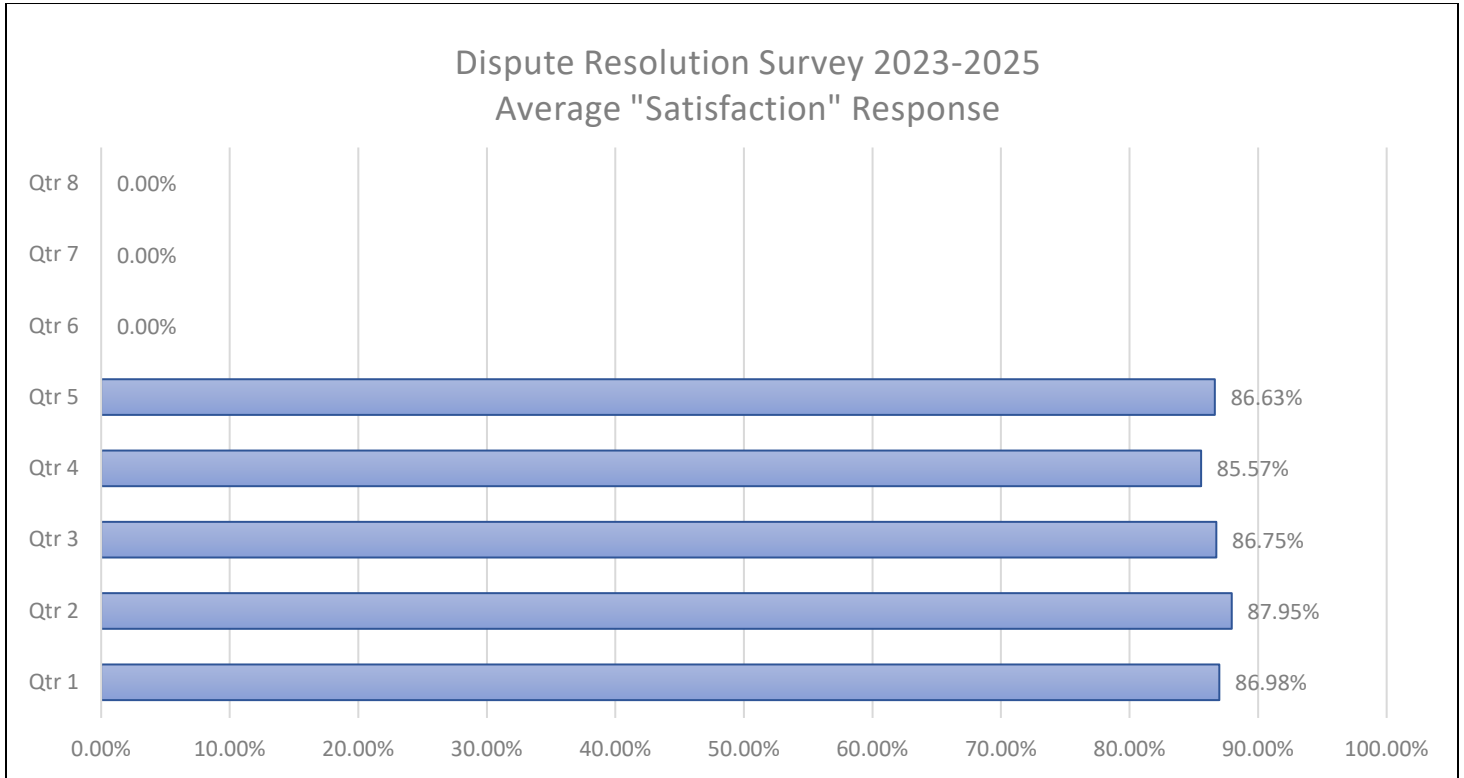
2023 Average	155.065
Jan-24	182.67
Feb-24	162.41
Mar-24	130.67
Apr-24	145.1
May-24	175.43
Jun-24	178.28
Jul-24	188.87
Aug-24	156.74
Sep-24	
Oct-24	
Nov-24	
Dec-24	
2024 Average	110.0141667

*Approximately 2 month lag for final closure dates.



KPM #4: In FY 2024 (7/1/23-6/30/24) CCB has gone beyond the target expectation by 9 days.

KPM #5: The agency has gone beyond the target expectation by 3 days for FY 2024 (7/1/23-6/30/24).



DRS Survey, Q5

I felt the mediation process could be improved some. I felt he just went back and forth with numbers and not information. I didn't hear anything from the respondent's side other than a number. Maybe that's all they gave them, but felt the reasoning of both sides could've been more involved.

Improvement could have happened by expressing to the contractor that there is a complaint, and the first action is mediation are they going to agree to mediation and then it is scheduled 30 days out if they choose to no mediation the other measure can be exercised at that point instead of having the consumer wait. I feel that time was wasted, Time is money, after the contractor declined mediation then the complaint has been another 2 months. The board could also help with complaints within \$20,000 or at least the bond they require contractors to have. Now I am back trying to figure out where to start. It has already been a long time since the contractor left my project paying him in full and having to pay someone else to finish. Another delay and paying \$50 for him to say no to mediation!

Pleasantly surprised with simplicity and timeframes

The staff I spoke with through my process were extremely helpful and understanding of my problem. All of my questions were answered fully and professionally. The mediator was thoughtful of my concerns and explained my process going through the next steps needed.

1. When a contractor fails to inform homeowner of their Lein Rights, contractor should be held accountable for breaking Iregon State law. Also, Complaints should be retained in contractor file, so other potential homeowners thinking of doing business will have the benefit of knowing about past homeowner complaints. I think this is very important, but sounds like no history will be available to public, once resolution is reached. Unfortunate.

Make it more clear how poor the whole process is when it goes to mediation you need a legitimate contractor on your side to make decisions so you don't get screwed any more

More accountability for scamming contracts

I would ask a complainant to submit a cost proposal from another contractor to fix the problem at issue.

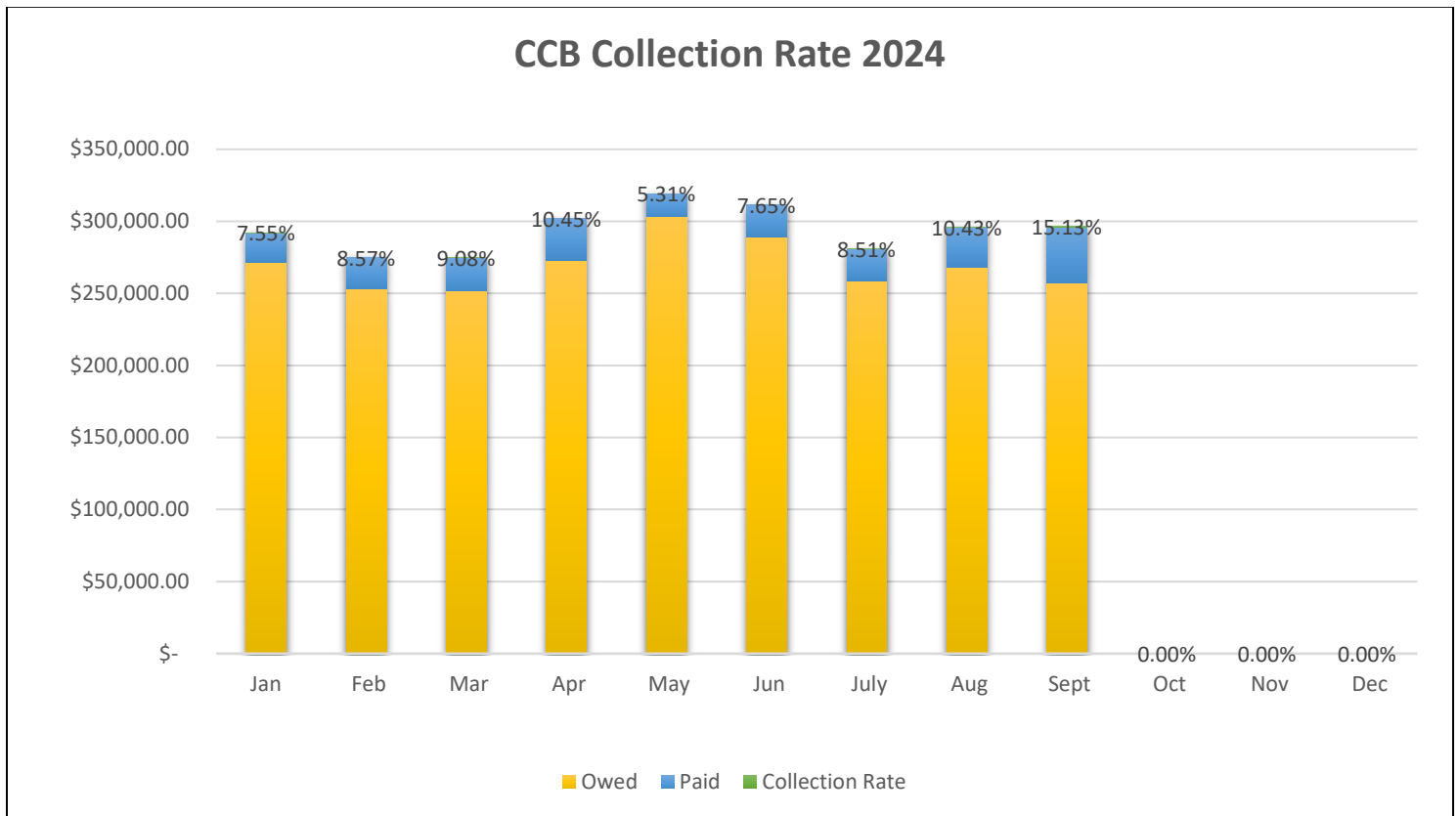
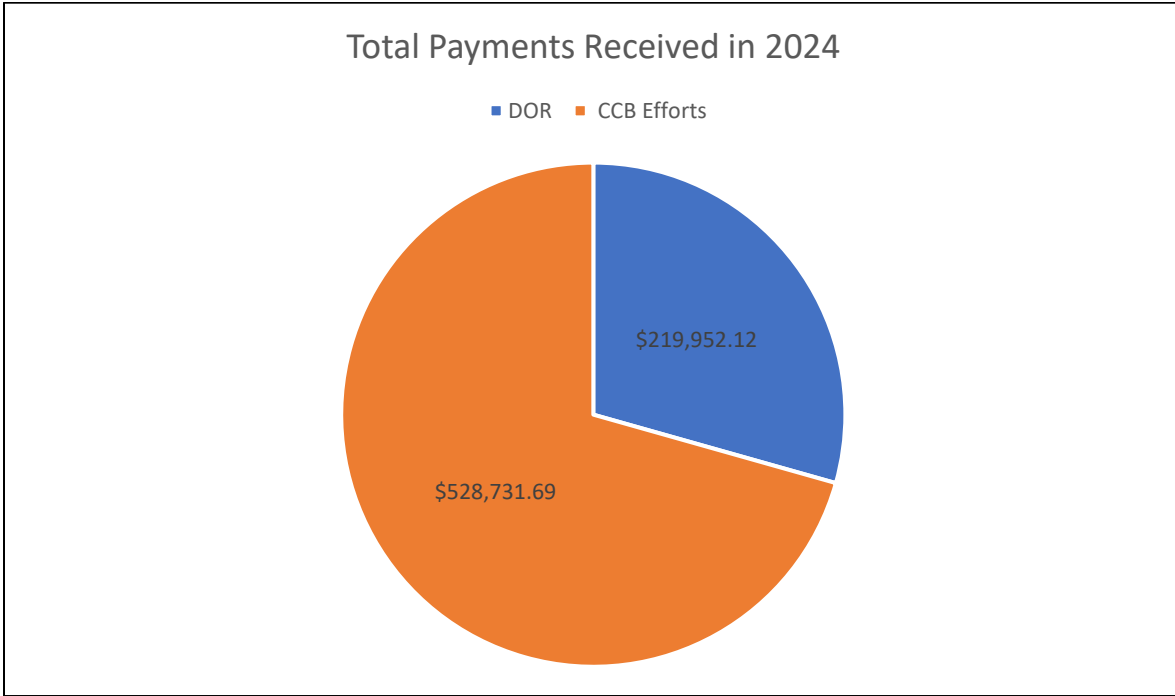
More leniency with rescheduling mediation appointments. I had to take a day off from work to attend because my request to reschedule was denied. My work schedule is set in stone months prior.

More resources for contractors when clients don't pay.
NA
No comment
CCB Was great.
The mediator should not have allowed the lawyer to dictate the process. Our mediator had absolutely no influence or control over the respondent lawyer's behavior...who at one point in the mediation was hostile. It simply was a waste of time.
as complainant we came prepared to negotiate. The contractor would not negotiate. contractors should be held accountable if they will not negotiate with the property owners as they agree to this process at the start of the contract.
Outlook service
Respondent should be able to file counter claim
Better up front information about the mediation being a one visit, one chance with very limited time to resolve the complaint issues, without regard to how extensive the complaint/code violations are. Allow for a second mediation to address "new presented" products or require the respondent to provide their proposed remedy prior to mediation so new products or solutions can be reviewed before agreeing to settle without adequate information. Have the mediator state the alternative to not settling, and having to take court action/arbitration with understanding and agreement instead of repeatedly interrupting the negotiations with the same 'take it to court' (10 times) wasting precious time to actually discuss the agreed terms. Clearly state that Industry Standards refer to Code Compliance in layman language, as many disputes involve building code violations. Be neutral/fair with time allocation to both parties. Start at the beginning of the process to work towards agreements, not jumping to the end when the respondent presents an, on the spot Scope of Work, which was the only consideration my mediator would consider and put in the settlement agreement. If the respondent is graced 120 days to complete add a clause that if any other damage occurs due the negligent original work they will also be responsible (roofing issues need to be address in a timely manner due to Oregon Fall and winter weather, as due health and safety issues which should be a priority for the respondent to remedy in a timely manner. Wait until the mediation is complete before typing up the settlement agreement.
Nothing
It was disappointing to wait the initial 30 days after sending the certified letter. I had no interest in mediation, as the contractor had done considerable damage to our kitchen, was given ample time to rectify the issues and failed. I was seeking to have his license revoked, especially, based on considerable past complaints under a different company name. I feel there is little protection for the consumer against this type of perpetrator, except to pursue it through the court system, which is extremely expensive.
Was good
I can't think of anything- seemed pretty straightforward.
Read all information from both parties and ask questions. Hire actual negotiators instead of staff members whose only goal is to "split the baby". Every time I go through one of these dispute resolution processes, they are a waste of time.
Not sure yet. Pretty good solid help.
Thank you!
The mediaiton process was great but the combination of today's current expectations for legal fees/court processes and the costs of construction feel out of sync with the minimal \$20,000 bond that most contractors have (are required by CCB to have?) The bond amounts should be increased to keep up with inflation and the potential for contractors to be working on projects that have tens and hundreds of thousands of dollars involved. Given that the bonds are only \$20,000 and court costs can easily reach \$10-15K, it seems to incentivize contractors to settle disputes for ~\$15K or less, which may not be commensurate with the damages incurred by a homeowner, but with only \$20K available in the bond may still be worth settling for in mediation simply because there is no alternative that will make the homeowner whole.
The process is very very good.
Although CCB has mediated this complaint, USA Roofing continues to be licensed and working. This is not the first complaint filed against USA Roofing. USA Roofing is doing very poor work and I know of several other people that have had their roofs incorrectly installed. Not only is this a safety issue, but USA's customers are incurring large financial debts. If CCB is licensing contractors, they ought to have some responsibility for ensuring the contractors are performing work that is at minimum "industry standard".

Get some teeth into what you can actually do with a license / license holder who repeatedly violates standards. Softball approach / practice doesn't protect consumer.
You need to protect consumers and businesses who have had their licenses revoked should absolutely not be allowed to set up shop under a different business name and different "owner". I have been completely victimized and the CCB has absolutely failed
Actually a pretty smooth and clearly defined process and we appreciated the assistance and willingness to help explain the steps and timelines
It was handled very well. Nick has knowledge about what happens if mediation fails, which was helpful in our decision making.
In my opinion, the process fosters frivolous complaints. Contracting with a third party to complete actual investigations that is fact finding, impartial and aware of standard building practices would go much further in mitigating damages. As a contractor, this was a successful project for nearly 7 months, then something happened on the owners' side and I am still trying to figure out why the break down in communication happened. I would have been happy to do whatever necessary to make the customer happy. As it is, there is an unverifiable complaint that may still end up in court.
If the CCB offers a mediation process, then it should be a true mediation with the mediator using information from both sides to try to bring the parties together to settlement.
The whole process could be redone. It seems like a waste of money for no outcome only to have to pay more money to go to court.
Dissolve your organization. You do not serve contractors in any helpful way.
There is no process. The contractor refused to attend mediation, so now we will be out even more money having to hire an attorney to sue the contractor. This process is absolutely useless.
It should be an open discussion between the mediator - contractor and home owner and that's it — not separated by space and the contractor having a team on hand. So un fair and one sided.
If a person does not file a claim they do not have a chance to voice problems, there should be a call in line or written complaint form separate from a trial filing
It's a pity a contractor cannot file a claim against the customer. It's not that a contractor is always the only one to blame. It's often the other way round.
Dissolve the CCB. It does most definitely NOT protect the consumer but is excellent at collecting fees. ☹ ☹ ☹
Be more clear in communicating the responder's response!
Don't allow fraudulent claims.
NEARLY EVERY STEP OF THE PROCESS NEEDS WORK.
Please read my previous comments. I've just been denied a second CCD complaint against the same contractor because I took the first complaint to court and the judge found in the contractors favor, and the analyst cited the CCB could not overturn a court judgement- I didn't ask for that. I asked for a second complaint based on the contract that came out of CCB mediation last year and is dated 8/17/23, with work completed end of September 2023, because my roof is still leaking. I was assured by the analyst who worked my case previously that I could open a new case and now, today I received notice I in fact cannot; also when I called in to get help filling out the form I was assured the previous complaint and court judgement against me would not cause issue in opening a new/2nd complaint. In the meantime between complaints, I did reach out to the department of consumer affairs and I learned that if I had been cross walked there instead of to court, they could have helped me resolve the issue more satisfactorily. I have also been to the shingle manufacturer who hold the warranty DaBella is supposed to honor, and I have had communication with DaBella's attorney. I wish I had known I was going to hit this dead end and get no help and be in worse shape anyways for standing up for myself by coming to the CCB and listening to and following the direction I received here. Shame on this department. You should have a deep dive audit. I have no idea what good you are doing.
Not help at all
Would be easier if CCB could make a final ruling and enforce it with the contractor instead of having to go to court
The mediator should have seen the evidence provided by both parties to see and have a reasonable offer to both parties, rather than one party have a mind of what the dispute costs.

<p>ever step can be improved, some may require rule changes. This process is very contractor-focused, and the consumer has very few options and limited ability to resolve the issue. Consumers have to go through a series of hoops to be able to be address a contractor issue.</p>
<p>I don't know</p>
<p>It was hard to get a hold of someone to make the required payment before mediation.</p>
<p>keep up the good work. And, thanks so much for your help.</p>
<p>All of it! Improve on all of it! Terrible job!</p>
<p>Please provide direction for moving this issue forward in getting resolved.</p>
<p>Nothing comes to mind at this time. Thank You</p>
<p>leave court out of process if CCB could not reach respondent after 60 days!</p>
<p>I trust the office is understaffed, so no complaints. Every contractor I've dealt with isn't what I'd call honest. Ms. Rufo is the worst.</p>
<p>As I mentioned above, it would be easier if the CCB had an avenue that wasn't involving lawyers in court to decide of the contractor was negligent and to be able to put a figure on that so that one could go forward to collecting on their bond if they were found it Mediation doesn't really do anything except for put a dollar on what you're willing to walk away with without having to go forward spending more money to try to resolve it. Most contractors put in an agreement that you must go to arbitration to resolve disputes and that is expensive and you probably need a lawyer for that is what everyone's telling me , if you're in control of your contractors and you're making them licensing and bonding and then you should have some control over deciding whether they're negligent or not</p>
<p>Allow photo/video evidence to be submitted</p>
<p>I wonder if it might be possible to have obvious complaints delt with without arbitration.</p>
<p>Make bad contractors have to resolve without small claims court.</p>
<p>Communication before the complaint is officially filed.</p>
<p>by keeping mediation in person not absent</p>
<p>Time frame from sending letter to Contractor and then to resolution.</p>
<p>Nothing that I can think of. I guess it would help if you made sure that an applicant for a business license included both a valid physical address and a mailing address. That is the only glitch I had, when I sent the certified notice to his mailing address, but the only address you had on file was his physical address and there is no door-to-door mail delivery in Moro.</p>
<p>You need to investigate more before you open a complaint against a company and request more proof from people filling a complain before you damage a company reputation especially if the company has a clean record like mine</p>
<p>This board is a complete waste of taxpayers' money. You do nothing to protect the consumer, even when the contractor did not provide all required complaint forms when the job was over \$2000.00. My only recourse is to hire a lawyer and sue.</p>

Collections



**Total Owed v Total Paid is a bit skewed due to the action code PEND08. This is when a licensee pays their penalty before a Final Order is issued. Therefore, the total owed is never entered into Hydra but the payment received is.*

KPM #3: The agency was well under the target maximum for FY 2024 (7/1/23-6/30/24), the agency achieved 29 percent.

Education

CCB CONTRACTOR CLASSES						
2024						
Class Type	Stakeholder(s)	Taught in another	Where?	Date	Attendees	Qtr Total Attendees
CCB Contractor Class	CCB		Virtual	1/10/24	100	
			Virtual	1/30/24	89	
			Live - Bend	1/30/24	20	
			Virtual	2/14/24	58	
			Virtual	2/20/24	66	
			Virtual	3/12/24	125	
			Live	3/19/24	26	
			Virtual	3/20/24	81	
			Virtual	3/26/24	24	
Qtr - 1 Total						589
Class Type	Stakeholder(s)	Taught in another	Where?	Date	Attendees	Qtr Total Attendees
CCB Contractor Class	CCB		Virtual	4/10/24	97	
			Virtual	4/23/24	85	
			Live	5/10/24	27	
			Virtual	5/14/24	81	
		Spanish	Live	5/21/24	30	
			Virtual	5/22/24	53	
			Live	6/7/24	60	
			Virtual	6/25/24	90	
			Virtual	7/17/24	76	
			Virtual	8/6/24	53	
			Virtual	8/14/24	112	
			Virtual	9/4/24	110	
Qtr - 2 Total						874

Various Speakers

Department of Environmental Quality (DEQ)
 Oregon Occupational Safety and Health
 Administration (OSHA)

Division of Financial Regulations, DCBS (DFR)
 Workers Compensation Division
 811

CONSUMER CLASSES						
2024						
Class Type	Stakeholder(s)	Taught in another language?	Where?	Date	Total Attendees	Qtr Total Attendees
Mid-Oregon Safety Summit	CCB, OSHA, Other		Live - Bend	1/30/24	100	
Homeowner Class	CCB, DCBS		Virtual	2/12/24	6	
Portland Home Show	CCB, DCBS		Live	2/22-2/25/24	300	
Marion County Business Fair	CCB		Live	2/27/24	20	
Marion County Business Fair	CCB		Live	2/29/24	40	
ScamJam	CCB		Live	3/26/24	50	
Qtr-1 Total						

Class Type	Stakeholder(s)	Taught in another language?	Where?	Date	Total Attendees	Qtr Total Attendees
Consumer Education	CCB, Access		Live	4/23/24	600	
Medford Home Show	CCB		Live	5/3-5/5/24	300	
COBA Home Show	CCB		Live	5/3-5/5/24	300	
Mini Scam Jam	CCB		Live	5/11/24	83	
Boomerama	CCB		Live	5/18/24	100	
Governors Marketplace	CCB		Live	6/5/24	100	
UNETE - How to hire a contractor	CCB - Spanish		Live	6/21/24	20	
CCC Expo	CCB		Live	8/8/24	200	
Qtr-2 Total						

Stakeholders

Oregon Home Builders Association
 LatinoBuilt
 Oregon Office of Attorney General
 AARP
 Mid-Valley Association of Realtors
 City of Medford
 Jackson County Community

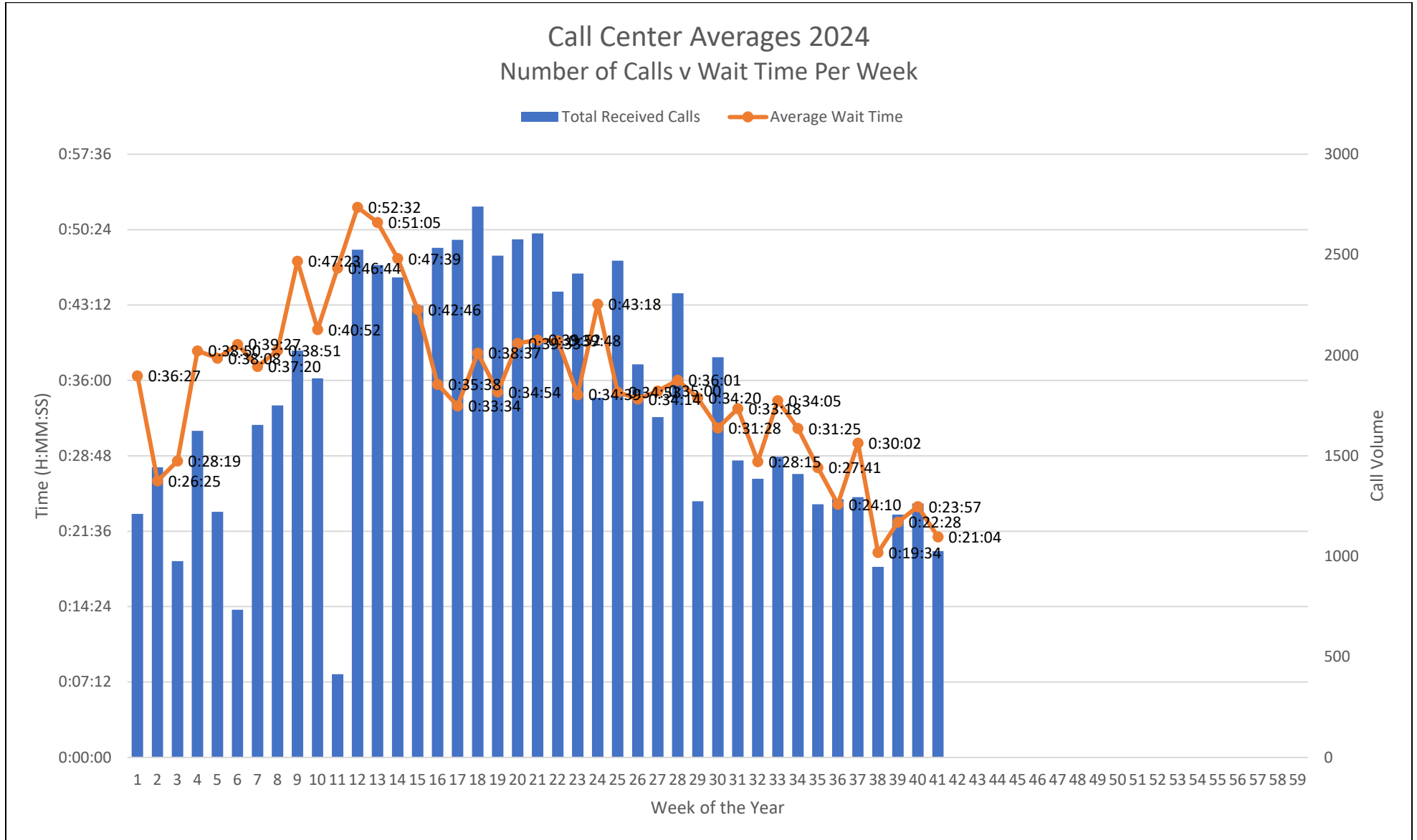
Lane County
 Wallowa Town Hall
 City of Portland
 OEM
 Lincoln City Senior Show
 Eugene Home Show
 Oregon Association of Realtors

Pre-License Candidates

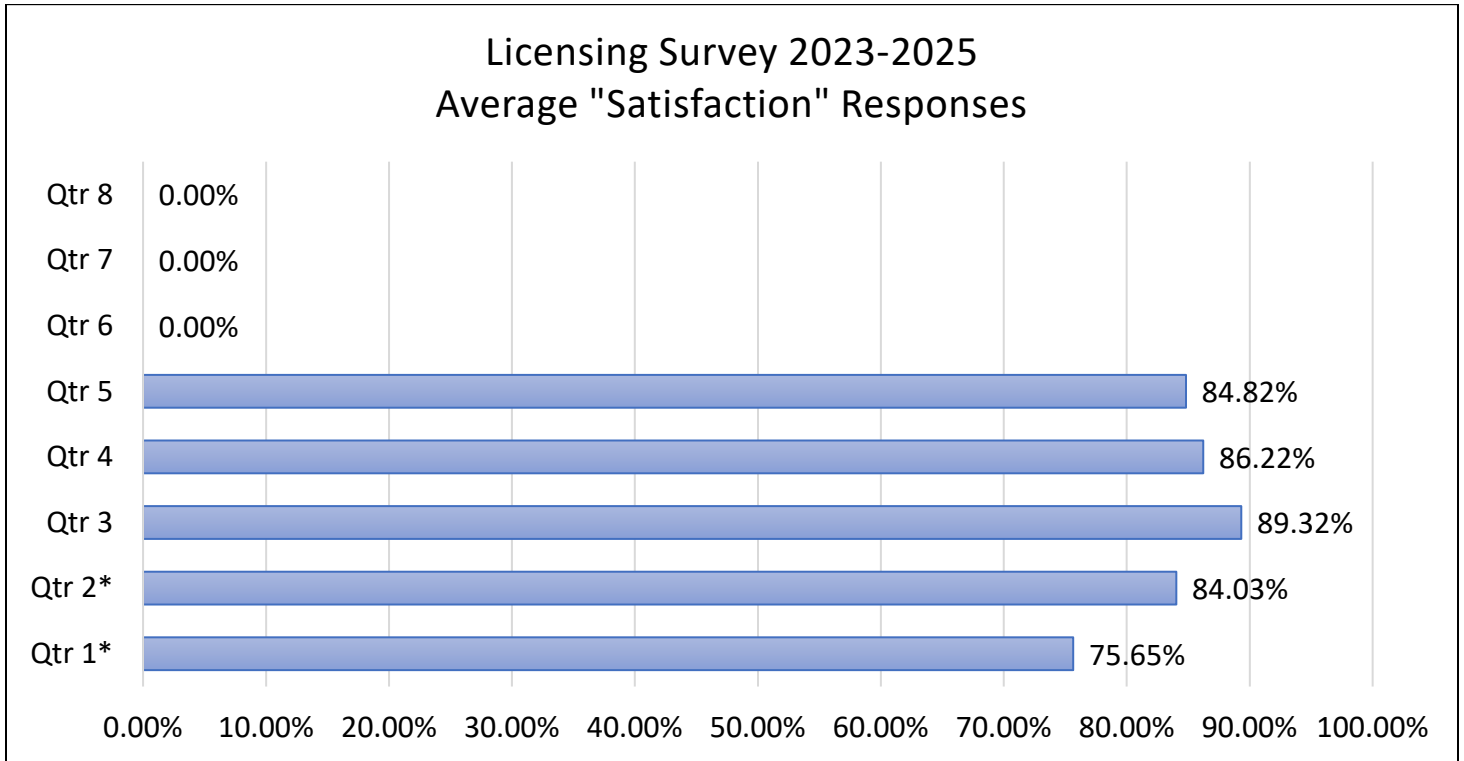
2024

Class Type	Stakeholder(s)	Taught in another language?	Where?	Date	Total Attendees	Qtr Total Attendees
How to get CCB license	CCB		Virtual	6/4/24	22	
			Virtual	7/9/24	60	
			Virtual	8/1/24	52	
			Virtual	9/9/24	54	
Qtr-2 Total						188

Call Center



*The average Wait Time to Answer can vary depending on staff coverage.



Licensing Survey, Q5 Comments

I followed the links from the CCB site to an 'approved' ce course. When I successfully completed the course, the system should be able to automatically update my ce credits like it does with the CCB courses. Not like I was using a completely outside course offering. That said, your staff very quickly updated my account once I emailed the completed certificate. Course offerings are getting stale and out of date. Need some newer and more current courses.

It's a long process given all of the application pages, signatures required, etc. However, it is very thorough and the staff was quick to respond to additional or missing information.

Your email for renewals shows no indication that it is for Oregon. The only indication is the OR in the email address. I have almost 200 licenses to renew yearly and it would help if your email would at least show what state the renewal is for without searching the email for a clue would be very helpful to everyone who needs to renew.

Thank you!

Horrible compared to California contractor's board!

Faxed my renewal

The phone system is terrible. I called multiple times over the course of a few months and the system to call back took up to 5 hours and then disconnected the line upon my answering the call. This happened multiple times. Additionally, the "on hold" music track is aggravating due to the very loud music, followed by a cease in music and an operator's voice, which leads to thinking the line was being answered. Very aggravating when waiting on hold for multiple hours in the middle of a working day.

No

Great Service!!

<p>Psi took a long time to share results, weeks and multiple calls to get the results. Ccb wait time for license and phone was challenging when you HAVE to pay for insurance while you wait. My cost to do the ccb was around 3k all in. Can't bid until you have the number. It's a lot for a small business to gut prior to working or knowing if the company will get work. Insurance, workman's comp, bonds, tests, booklets and prep, license fees.... It's a lot.</p>
<p>The hold times on the phone are usually quite long, and a couple times I've been disconnected after waiting a long time. It would be great to renew LBPR online.</p>
<p>I love what I do and the people I work with.</p>
<p>You guys are amazing</p>
<p>Every time I have called the CCB office over the years, everyone was knowledgeable, helpful and very professional. Thank you very much for your great service. -Jim Rozos</p>
<p>We went back and forth by email for weeks before Tami at the education department finally found our certificates she was very nice and helpful but osha should have forwarded them on completion. I spent 35 minutes on hold twice before I could speak to someone and they didn't help me. Obviously this is a common problem because it says in your literature to call if your classes are not posted</p>
<p>Found the phone calls with CCB to be very positive.</p>
<p>Very easy to use, LOVE IT.</p>
<p>really long wait for phone calls</p>
<p>It would be helpful if the application would better explain exactly what they need from insurance certs and bonds. The application is extremely confusing and prolonged the time it took to acquire the license. Would be helpful if there were resources to successfully complete the application. It is extremely vague.</p>
<p>All staff members are incredibly helpful.</p>
<p>The only problem I had was during the CCB online classes the session kept timing out then I had to go back to the website and go through various steps to get back to where I was</p>
<p>Darla was an absolute pleasure to deal with and speak to! Extremely helpful</p>
<p>I just started a generator business and found that regulations and guidelines for business has not been set up properly. Since the Generator process is not defined adequately, my insurance cost are associated with HVAC and Solar. In addition, the epermit process is not adequately defined and leads to inconsistencies and delays to complete. As a quality expert, I would like to help write the compliance and improve the epermit process.</p>
<p>The lady working the front desk at Salem office was so nice and helpful. While I waited in the lobby another customer ahead of had his children and can behind the counter came out to give them blowup balls and colored contractor hats which I thought was great.</p>
<p>If, when my license was suspended, I had been given the precise reason it would have made it much easier to fix. Instead, it took two different calls to get the problem resolved.</p>
<p>The field investigators do an excellent job!</p>
<p>Customer Service was very helpful answering questions on application</p>
<p>Only one person I spoke with was rude, kinda. The CCB has overall been a downright pleasure.</p>
<p>Always helpful and nice when I call, thanks</p>
<p>I like the way that the system is set up now it's easy and quick</p>
<p>There was never any indication of how long it would take to get the CCB following the application and it took quite a while for something that seems relatively straightforward. Would be great if that could be streamlined, especially when people are sometimes unable to do certain work in the meantime. Thx!</p>
<p>I did not speak to anybody so I have no answers for those questions.</p>
<p>The Agent I spoke to was outstanding ! She was very helpful and resolved my renewal quickly and professionally</p>
<p>Your website showing classes required vs classes completed is confusing and I had to call for clarification twice.</p>
<p>Muy bien trabajadores de ccb</p>

Everything is costing more or more.
The new online application process is great, just needs some tweaking. There was no indication of if or where "Jr" needed to be added to the owner's name as a suffix and "Residential" should always include "Small Commercial" to avoid confusion as to what to select. On the online application, I ended up selecting both Residential and Commercial when we only wanted Residential. That slowed the process as well. Also, I was told the option to cancel the license for our LLC in the process of applying for our Corporation but that form was missing in online process. That said, the person processing our application was very helpful.
The \$150 increase in the renewal fee is a bit extreme. Seems like the state doesn't value the little guy.
Questions weren't answered clearly. Treated rudely on the phone.
In the past I received notice of my upcoming renewal. That didn't happen this time around. I would like to see that continue if possible
The lady that helped me on the phone and in person was amazing!! She was knowledgeable and gave great instructions. She made the process easy and understandable. Thanks so much!!
NONE
The online application forces a local Oregon Address for a mailing address in Oregon. For out of state contractors this does not apply.
Being in such a digital age, I don't think processing an application should take 4-6 weeks.

CONSTRUCTION CONTRACTORS BOARD

201 High Street SE, Suite 600
PO Box 14140
Salem, OR 97309-5052
503-378-4621



Memorandum

To: Construction Contractors Board
From: Dana Zeimantz, Licensing Manager
Date: October 16, 2024
Subject: Licensing Report

Project Update:

- Licensing staff continue to participate in reviewing software requirements and developing use cases for the upcoming system replacement.

Current Quarter Update:

Top 3 reasons for customers calling Licensing are: Informational, New Application Status and Renewal. The number in each of the 3 categories have historically been about the same. At the last Board meeting we reported a downward trend showing Renewal calls are 50% less than Informational calls and New Application calls are 67% less than Informational calls. Current data confirms this trend is holding (new application and renewal calls are more than 50% reduced).

- Processing time for background screening of new applications is within 3 days of receipt of application.
- Overall New application processing time (date received to issuance of license):
 - July Average 23.19 business days
 - August Average 17.39 business days
 - September 12.49 business days
- Licensing completed the following cross-training: 1 staff member in insurance certificate processing, 2 employees in the public works bond processing and 1 employee in new application background screening.
- Licensing retired 1 employee and hired 1 employee.
- Licensing Manager attended the NASCLA conference in Virginia. In addition, the manager participated in the statewide customer service work group to help standardize customer service in the State of Oregon.

CONSTRUCTION CONTRACTORS BOARD

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503-373-2007 FAX



Memorandum

To: Construction Contractors Board
From: Noel Magee, IT Manager
Date: 16 October 2024
Subject: Information Technology Report

Ongoing Activities

Generally, development work has slowed in favor of items that support the licensing system replacement process. Especially requirements development and data cleanup.

This Licensing System Replacement work continues with

- 1) documenting current business processes so they can be more easily configured in whichever new software is eventually chosen is a heavy lift. This activity will pay back with more time and effort savings as the project moves forward.
- 2) Software development to implement the retention specifications during this period although it will take some months to complete.
- 3) Requirements are being reviewed again by each section and IT. This will further refine and clarify what we want to achieve.

We're reporting good numbers on the Security metrics and they are back down where we prefer them to be.

Current Period Changes

- Data Governance and retention
 - Reviewing the bulk of the ordinary retention data to ensure that nothing needing longer retention will be removed.
 - The code to actually clean up documents is about 60% complete
 - Extract code is 50% complete
 - Post action documentation capture is complete and working for one-off tiny groups.
- Tyler Tech Application support
- Email relay fixes to support EIS decommissioning their old SMTP relays.
- Staff changes with one member moving on to another opportunity

Upcoming work

- Systems replacement project work continues to review requirements for the RFP.
- Data retention work continues with validation of simplest run output. (Making sure we are only affecting what we intend to affect)
- Move to SDC will overwhelm us for a time. Getting things started as quickly as possible.
- Network circuit will need to be changed so it comes in on the first floor and then a drop to the second floor (for PUC) and the sixth floor (for CCB) will need to be run.

➤ Security reported status - Reported monthly by EIS/Enterprise Security Office (ESO)

- ◆ The state numbers may be confusing. This percentage is arrived at by comparing the number of vulnerabilities found to the number of systems that have a vulnerability. So a single system with 2 critical vulnerabilities would rate 200%. Thus 155% means that, on average each vulnerable system has 1.55 vulnerabilities.
- ◆ During the current period our security numbers came back in line with our ordinary range.

- ◆ **02 September 2024**
 - 96% of systems scanned (statewide 91%)
 - 37% have critical vulnerabilities (statewide 45%)
- ◆ **05 August 2024**
 - 98% of systems scanned (statewide 91%)
 - 46% have critical vulnerabilities (statewide 62%)
- ◆ **03 June 2024**
 - 96% of systems scanned (statewide 91%)
 - 35% have critical vulnerabilities (statewide 77%)
- ◆ **01 April 2024**
 - 97% of systems scanned (statewide 91%)
 - 39% have critical vulnerabilities (statewide 38%)
- ◆ **21 February 2024**
 - 95% of systems scanned (statewide 91%)
 - 37% have critical vulnerabilities (statewide 45%)
- ◆ **02 October 2023**
 - 95% of systems scanned (statewide 92%)
 - 41% have critical vulnerabilities (statewide 57%)
- ◆ **04 September 2023**
 - 94% of systems scanned (statewide 91%)
 - 78% have critical vulnerabilities (statewide 91%)
- ◆ **05 July 2023**
 - 93% of systems scanned (statewide 90%)
 - 55% have critical vulnerabilities (statewide 69%)

CONSTRUCTION CONTRACTORS BOARD

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Memorandum

To: Construction Contractors Board
From: Leslie Culpepper, Communications and Education Manager
Date: October 2, 2024
Subject: Outreach and Education Program update

Education Activities

- **CCB 3-hour Contractor Webinar** – August 6 – 53 contractors
- **CCB 3-hour Contractor Live Class (Clackamas - English)** – August 8 – ~24 contractors
- **CCB 3-hour Contractor Webinar** – August 14 – 112 contractors
- **CCB 3-hour Contractor Webinar** – September 4 – 110 contractors
- **CCB 3-hour Contractor Live Class (Wilsonville – Spanish)** – October 2 – 6 contractors

Outreach Activities

- **How to Get a CCB License Webinar** – August 6 – 50 attendees
- **Clackamas Community College SBDC** – August 8 – ~200 contractors
- **How to Get a CCB License Webinar** – August 6 – 54 attendees

Update

Education section is working on an update of our 3-hour presentation for contractors. We expect to debut the new presentation this November.

The How to Get a CCB license webinar continues to go well, with more than 100 people registering for each webinar. We are working on a recording of this webinar in Spanish, to post on our website later this year.

We are also currently working on a recording of our Secrets to Success presentation in Spanish. This will be posted in the on-demand CCB classes that contractors can take to renew their license. The recording is complete, and now the content must be divided into chapters, similar to our other LRB classes.

CONSTRUCTION CONTRACTORS BOARD

201 High Street SE, Suite 600
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Salem, OR 97309-5052



Memorandum

To: Construction Contractors Board
From: Vena Swanson, Enforcement Program Manager
Date: 10/04/2024
Subject: Enforcement Update

Field Operations Sweep Updates:

Area	Job Site Checks	Lead Based Paint License Checks	Building Codes Division Checks	Total Violations
North Coast	111	12	22	21
Eastern Oregon	56	15	6	24
Greater Portland	249	95	54	54
Marion County Valley	159	51	28	44
Linn County	95	43	8	18
Central Oregon	69	10	7	15
Eugene ICN joint effort	46	20	7	5
Kfalls BCD joint effort	13	5	0	2
Totals	798	251	132	183

TOP 5 VIOLATIONS	
Work W/O License CCB	33
No LBP License	32
Exempt with Employees	25
Expired ABN	15
Lack of LBPR Standards	13

Compliance

File load remains about 140 per week

Succession training- agency accounts receivable function

Dispute Resolution

Interviews for Mediator- In progress

File load is around 320 files each analyst

Project Work Highlights (Varying Stages)

License Replacement Project-	<i>Compliance Section</i>
Develop Training/ phone mediations-	<i>DRS Section</i>
Mediation agreement language revision	<i>DRS Section</i>
Remote investigations- 2 In progress	<i>Field Investigation Section</i>
Senate bill 228- License Conditioning	<i>Compliance Section</i>
Senate bill 228- Settlement Agreements	<i>DRS section</i>
E-Warnings Pilot	<i>Enforcement Division Admin</i>
Public Facing Complaints	<i>DRS Section</i>

The consent agenda is attached for approval.

CONSTRUCTION CONTRACTORS BOARD ENFORCEMENT CONSENT AGENDA

10/4/2024

08/09/2024 - 10/03/2024

NOTICES OF INTENT

<u>File #</u>	<u>Respondent</u>	<u>Cite</u>	<u>Date</u>	<u>Amount</u>
135130	EAZY UP GARAGE DOOR REPAIR LLC		10/02/2024	600.00

1 - ADVERTISING, BIDDING OR WORKING WITHOUT A LICENSE

<u>File #</u>	<u>Respondent</u>	<u>Cite</u>	<u>Date</u>	<u>Amount</u>
134701	CLARKE, CARY R	701.021(1)	09/05/2024	1,000.00
134750	HISSNER, CORY ALLEN	701.021(1)	08/20/2024	600.00
134839	MONDAY, MICHAEL HOWARD	701.021(1)	08/14/2024	5,000.00
134843	ATKINSON, ROBERT G	701.021(1)	09/04/2024	5,000.00
134866	NIXON, PHILLIP	701.021(1)	08/09/2024	1,000.00
134877	FOREST FREEDOM LLC	701.021(1)	08/12/2024	5,000.00
134879	G & G CONTRACTORS LLC	701.021(1)	08/12/2024	1,000.00
134886	CRUZ NORTHWEST PAINTING LLC	701.021(1)	08/12/2024	1,000.00
134898	GONZALEZ, VICTOR CALEL	701.021(1)	08/12/2024	1,000.00
134902	KRUSE PAINTING LLC	701.021(1)	08/16/2024	1,000.00
134919	TOTH, JASON A	701.021(1)	09/24/2024	1,000.00
134919	TOTH, JASON A	701.021(1)	08/21/2024	1,000.00
134943	503 WOODWORKS LLC	701.021(1)	08/27/2024	5,000.00
134945	FOCA, MITICIA	701.021(1)	08/27/2024	5,000.00
134947	INVESTMENT UPGRADES LLC	701.021(1)	08/28/2024	5,000.00
134955	PRO ANGLE CONSTRUCTION LLC	701.021(1)	09/25/2024	1,000.00
134955	PRO ANGLE CONSTRUCTION LLC	701.021(1)	09/02/2024	1,000.00
134958	GRAVATT, MICHAEL DAY	701.021(1)	08/28/2024	1,000.00
134959	ESMERS CONSTRUCTION LLC	701.021(1)	08/28/2024	700.00
134962	M & H OREGON CONSTRUCTION LLC	701.021(1)	08/29/2024	1,000.00
134966	MCCONNELL, RAYMOND B	701.021(1)	09/16/2024	5,000.00
134966	MCCONNELL, RAYMOND B	701.021(1)	08/30/2024	5,000.00
134969	STEVENS, GARY L	701.021(1)	09/06/2024	1,000.00
134987	THREE EAGLES CONSTRUCTION LLC	701.021(1)	09/10/2024	1,000.00
135026	APEX MULTIFAMILY BUILDERS LLC	701.021(1)	09/09/2024	1,000.00
135034	HILLER, ERIC DANIEL	701.021(1)	09/09/2024	1,000.00
135044	SEMENUIK, MYROSLAV V	701.021(1)	09/19/2024	0.00
135044	SEMENUIK, MYROSLAV V	701.021(1)	09/12/2024	1,000.00
135047	CHRISTMON, JUSTIN SCOTT	701.021(1)	09/12/2024	1,000.00
135067	WALSH, EZRA	701.021(1)	09/13/2024	5,000.00
135072	RENFRO, JAMES HOWARD	701.021(1)	09/17/2024	1,000.00
135081	CARRASCO DOLORES, NOE ANTELMO	701.021(1)	09/18/2024	5,000.00
135083	POSEIDON GENERAL CONTRACTING LLC	701.021(1)	09/18/2024	5,000.00
135094	STELLER, ADAM WALKER	701.021(1)	09/20/2024	1,000.00
135095	JONSSON, ALEXANDER HART	701.021(1)	09/20/2024	1,000.00
135096	JBQ QUALITY CONSTRUCTION INC	701.021(1)	09/20/2024	5,000.00

CONSTRUCTION CONTRACTORS BOARD ENFORCEMENT CONSENT AGENDA

10/4/2024

08/09/2024 - 10/03/2024

NOTICES OF INTENT (cont.)

1 - ADVERTISING, BIDDING OR WORKING WITHOUT A LICENSE (cont.)

<u>File #</u>	<u>Respondent</u>	<u>Cite</u>	<u>Date</u>	<u>Amount</u>
135104	PRO COVER ROOFING LLC	701.021(1)	09/24/2024	1,000.00
135109	KEEFER, JASON RIAN	701.021(1)	09/24/2024	5,000.00
135114	TAYLOR MADE SERVICE LLC	701.021(1)	09/25/2024	700.00
135115	ROBERT FREEMAN LANDIS AND STEFANIE RENEE LANDIS	701.021(1)	09/25/2024	600.00
135117	UNION EXTERIORS LLC	701.021(1)	09/26/2024	5,000.00
135118	CUSTOM PROJECTS AND RENOVATIONS LLC	701.021(1)	09/26/2024	5,000.00
135120	DUANE SPEIGEL CUSTOM WOOD CREATIONS & SERVICES LLC	701.021(1)	09/25/2024	5,000.00
135123	ESMERS CONSTRUCTION LLC	701.021(1)	09/26/2024	700.00
135129	BIG K MOBILE STUMP GRINDING LLC	701.021(1)	09/27/2024	1,000.00
135153	NORTHERN, JEFF LEE	701.021(1)	10/02/2024	5,000.00
135155	GUAJARDO, JAMES JESSE	701.021(1)	10/02/2024	5,000.00
135157	MACROBERTS HANDYMAN LLC	701.021(1)	10/02/2024	1,000.00
135163	AREY, MARC THOMAS	701.021(1)	10/02/2024	700.00

2 - EXEMPT CONTRACTOR WITH EMPLOYEES

<u>File #</u>	<u>Respondent</u>	<u>Cite</u>	<u>Date</u>	<u>Amount</u>
134884	HUNTER TREE CARE LLC	701.035(3)	08/13/2024	1,000.00
134900	SCHWAB RESIDENTIAL CONSTRUCTION LLC	701.035(3)	08/21/2024	1,000.00
134901	BUTTE, BRYAN JAMES	701.035(3)	08/20/2024	1,000.00
134915	M & M CONSTRUCTION BUILDING SERVICE LLC	701.035(3)	08/20/2024	1,000.00
134926	PNW COATINGS LLC	701.035(3)	08/21/2024	1,000.00
134927	TL REMODEL & CONSTRUCTION INC	701.035(3)	08/22/2024	1,000.00
134938	BUTTON PLUMBING LLC	701.035(3)	08/27/2024	1,000.00
134956	STRATA HOME ENHANCEMENT LLC	701.035(3)	08/28/2024	1,000.00
134973	MC CONCRETE PDX LLC	701.035(3)	09/04/2024	1,000.00
134977	ALLSTATE CONSTRUCTION DEMOLITION RESTORATION LLC	701.035(3)	09/04/2024	1,000.00
134979	MARZ REMODELING LLC	701.035(3)	09/04/2024	1,000.00
134980	PEGASUS CONCRETE LLC	701.035(3)	09/02/2024	1,000.00
135023	ANDERSON, GLEN EDWARD	701.035(3)	09/11/2024	1,000.00
135039	LIVE OAK CONSTRUCTION LLC	701.035(3)	09/11/2024	1,000.00
135056	SHARP BRUSH PAINTING LLC	701.035(3)	09/12/2024	1,000.00
135066	RUIZ REMODELING LLC	701.035(3)	09/12/2024	1,000.00
135073	MOALA, SIOELI PULU	701.035(3)	09/13/2024	1,000.00
135074	PRESSURE WASH PORTLAND LLC	701.035(3)	09/17/2024	1,000.00
135102	ORIGIN REMODELING & CONSTRUCTION LLC	701.035(3)	09/24/2024	1,000.00
135162	THOMAS CONSTRUCTION & REMODELING INC	701.035(3)	10/01/2024	1,000.00
135174	AFFORDABLE PLUS QUALITY CONSTRUCTION LLC	701.035(3)	10/03/2024	0.00

CONSTRUCTION CONTRACTORS BOARD ENFORCEMENT CONSENT AGENDA

10/4/2024

08/09/2024 - 10/03/2024

NOTICES OF INTENT (cont.)

3 - LEAD BASED PAINT

<u>File #</u>	<u>Respondent</u>	<u>Cite</u>	<u>Date</u>	<u>Amount</u>
134860	ERIC A RUSSO CONSTRUCTION LLC	701.510(2)	08/09/2024	1,000.00
134893	SWEDENBORG&FINCH CORP	701.510(2)	08/16/2024	1,000.00
134894	HAGGLUND, GORDON ROY	701.510(2)	08/14/2024	1,000.00
134895	BLUE OCEAN CONSTRUCTION LLC	701.510(2)	08/14/2024	1,000.00
134918	SCHWAB RESIDENTIAL CONSTRUCTION LLC	701.510(2)	08/21/2024	1,000.00
134920	PAINTING & DECORATING SOLUTIONS LLC	701.510(2)	08/22/2024	1,000.00
134921	TL REMODEL & CONSTRUCTION INC	701.510(2)	08/22/2024	1,000.00
134922	PNW COATINGS LLC	701.510(2)	08/21/2024	1,000.00
134924	RESIDENTIAL CONSTRUCTION ENTERPRISE LLC	701.510(2)	08/21/2024	1,000.00
134929	REYES CUSTOM REMODELING LLC	701.510(2)	08/22/2024	1,000.00
134931	CA CONSTRUCTION LLC	701.510(3)	08/27/2024	1,000.00
134953	TOP TO BOTTOM CONTRACTORS LLC	701.510(3)	08/28/2024	1,000.00
134964	CURBIO INC	701.510(2)	09/09/2024	1,000.00
134985	MASTER BUILDERS OF AMERICA CORPORATION	701.510(2)	09/04/2024	1,000.00
135024	AGUILAR, CLAUDIA MICHELLE	701.510(2)	09/06/2024	1,000.00
135049	MASTER BUILDERS OF AMERICA CORPORATION	701.510(2)	09/11/2024	1,000.00
135051	RUIZ, REGINO	701.510(2)	09/11/2024	1,000.00
135058	HIGH PERFORMANCE HOMES INC	701.510(2)	09/13/2024	1,000.00
135062	CLEAR VIEW WINDOWS & DOORS LLC	701.510(2)	09/13/2024	1,000.00
135113	PAINTERS TOUCH LLC	701.510(2)	09/25/2024	1,000.00
135131	CMC CONSTRUCTION LLC	701.510(2)	09/27/2024	1,000.00
135142	JOHNSON, MARC WILLIAM	701.510(2)	10/01/2024	1,000.00
135158	V & V GENERAL CONTRACTORS LLC	701.510(2)	10/02/2024	1,000.00

5 - HIRING AN UNLICENSED SUBCONTRACTOR

<u>File #</u>	<u>Respondent</u>	<u>Cite</u>	<u>Date</u>	<u>Amount</u>
134954	LEVELS ABOVE CONTRACTING LLC	701.026(1)	09/02/2024	1,000.00
135043	RTA STONE LLC	701.026(1)	09/12/2024	1,000.00
135063	MARVEL CONSTRUCTION LLC	701.026(2)	09/13/2024	1,000.00

6 - FAILURE TO DELIVER RESIDENTIAL CONSTRUCTION NOTICES

<u>File #</u>	<u>Respondent</u>	<u>Cite</u>	<u>Date</u>	<u>Amount</u>
134847	MASTER GUTTERS LLC	087.093(2)	08/12/2024	200.00
134868	GREGORY, BRITTANY JOELLE	087.093(2)	08/13/2024	200.00
134891	GREGORY, BRITTANY JOELLE	701.330(4)	08/13/2024	100.00
134892	GREGORY, BRITTANY JOELLE	701.330(4)	08/13/2024	100.00
135069	J & G EXCAVATION & DEMOLITION LLC	087.093(2)	09/13/2024	200.00

7 - SUSPENSIONS

<u>File #</u>	<u>Respondent</u>	<u>Cite</u>	<u>Date</u>	<u>Amount</u>
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CONSTRUCTION CONTRACTORS BOARD

201 High Street SE, Suite 600
P.O. Box 14140
Salem, OR 97309-5052
503-378-4621
503-373-2007 FAX



Memorandum

To: Board Members
From: Chris Huntington
Date: October 2024
Subject: Receive CCB Annual Performance Progress Report – Non-voting item

DISCUSSION

The Annual Performance Progress Report (APPR) program incorporates annual reporting of Key Performance Measures (KPM) that have been agreed upon and approved through the legislative process. Annual reporting is required to the legislature and KPM reporting is a required element of the legislative budget authorization process.

The full report includes performance data on adopted measures as well as summary and responses to each metric.

BOARD ACTION

Acknowledge receipt of the report.

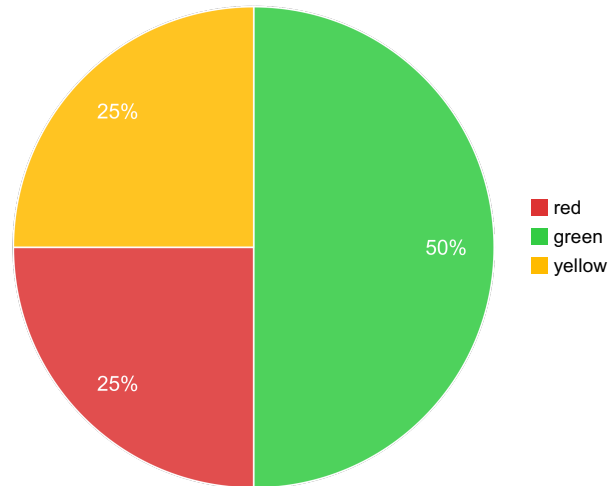
Construction Contractors Board

Annual Performance Progress Report

Reporting Year 2024

Published: 9/30/2024 3:17:15 PM

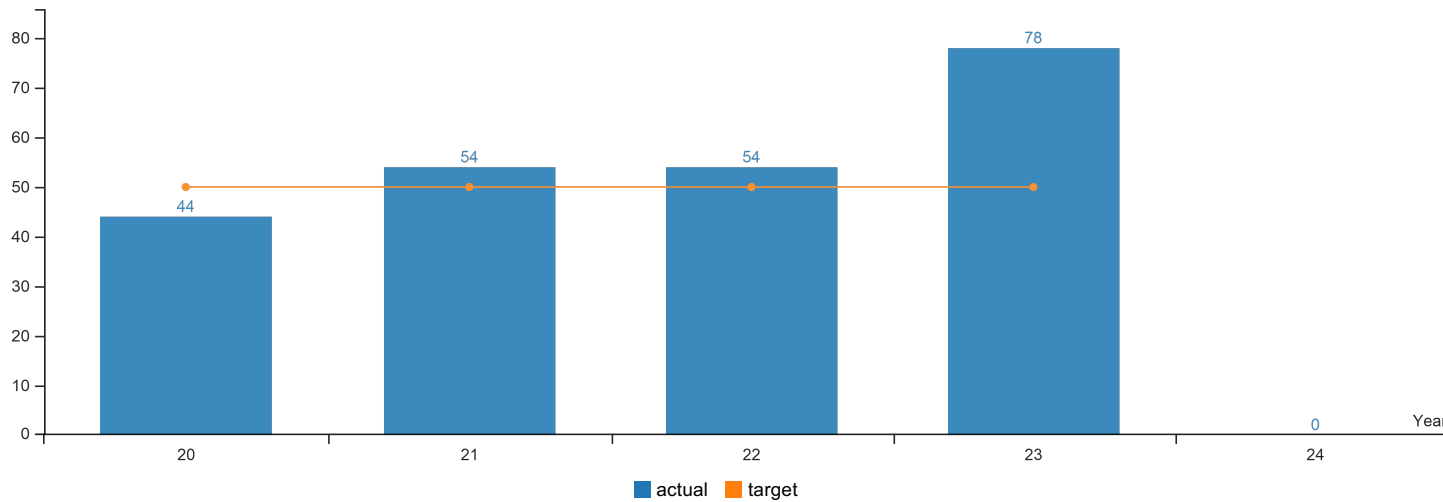
KPM #	Approved Key Performance Measures (KPMs)
1	Homeowner Awareness - Percent of homeowners who are aware of their rights and responsibilities and the services of CCB.
2	Unlicensed Recidivism Rate - Percent of offenders who perform work without a CCB license within three years of first offense.
3	Contractors Who Fail to Pay Damages - Percent of licensed contractors operating in Oregon that fail to pay in full final dispute resolution complaints for damages.
4	Enforcement Investigations - Average days to close an enforcement investigation.
5	Dispute Resolution Final Orders - Average days to issue a dispute resolution (claims) final order.
6	Fair and Impartial Dispute Resolution Process - Percent of parties to claims who perceive claims process to be fair and impartial.
7	License and Renewal Processing - Percent of contractors satisfied with the agency's processing of license and renewal information.
8	Customer Service - Percent of customers rating the agency's customer service as "good" or "excellent". Ratings cover timeliness, accuracy, helpfulness, expertise, availability of information and overall performance.
9	Best Practices - Percent of best practices met by the Board.



Performance Summary	Green	Yellow	Red
	= Target to -5%	= Target -5% to -15%	= Target > -15%
Summary Stats:	50%	25%	25%

KPM #1	Homeowner Awareness - Percent of homeowners who are aware of their rights and responsibilities and the services of CCB.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2020	2021	2022	2023	2024
Percent of Homeowners Aware of Rights					
Actual	44%	54%	54%	78%	
Target	50%	50%	50%	50%	

How Are We Doing

Approximately 78 percent of Oregon homeowners are aware of the CCB. This finding is based on a scientific survey of 800 Oregon homeowners conducted in May of 2023. This is a 24-point increase over the prior survey.

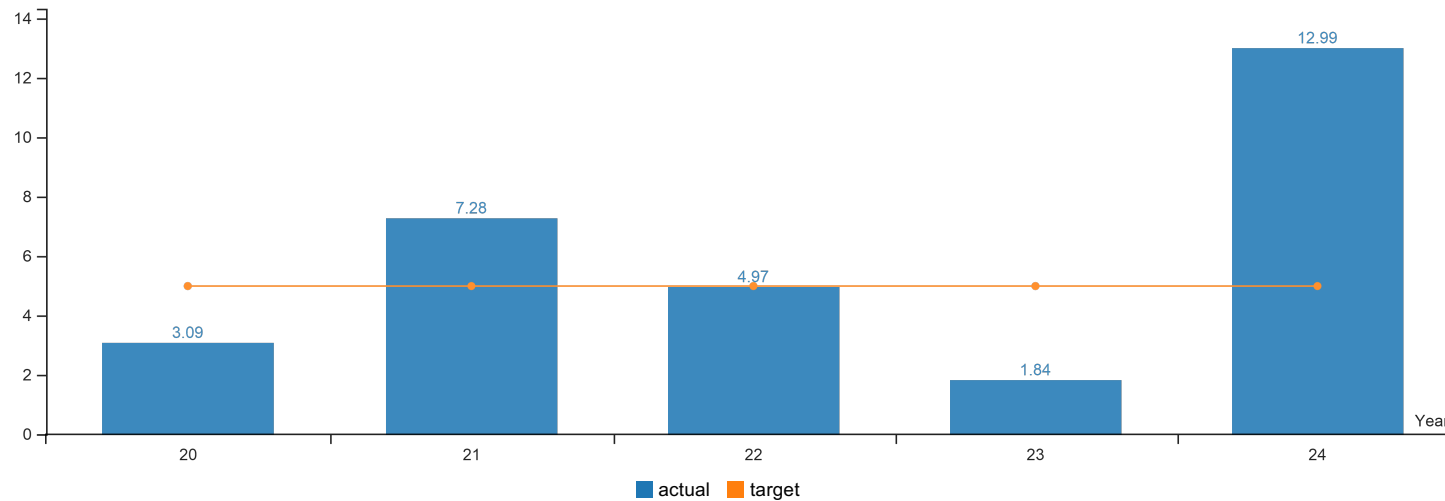
*New survey results will be available in 2025.

Factors Affecting Results

Outreach efforts over the last three years have taken the form of webinars, press releases, mass emails, joint publications with other agencies, PSAs, radio and television interviews. These efforts have been very successful, as the data shows. The agency also has been actively seeking new avenues to reach homeowners through agency partners that include other state and local government agencies, stakeholders and contractors themselves. In previous years, the agency's primary outreach focus included home shows and in-person outreach. The agency now attends some home shows in the fall and spring; however, data shows that home show attendance is on the decline. CCB will continue to perform the majority of its outreach activities through virtual platforms, partnerships with stakeholders and media.

KPM #2	Unlicensed Recidivism Rate - Percent of offenders who perform work without a CCB license within three years of first offense.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = negative result



Report Year	2020	2021	2022	2023	2024
Enforcement: Unlicensed Recidivism Rate					
Actual	3.09%	7.28%	4.97%	1.84%	12.99%
Target	5%	5%	5%	5%	5%

How Are We Doing

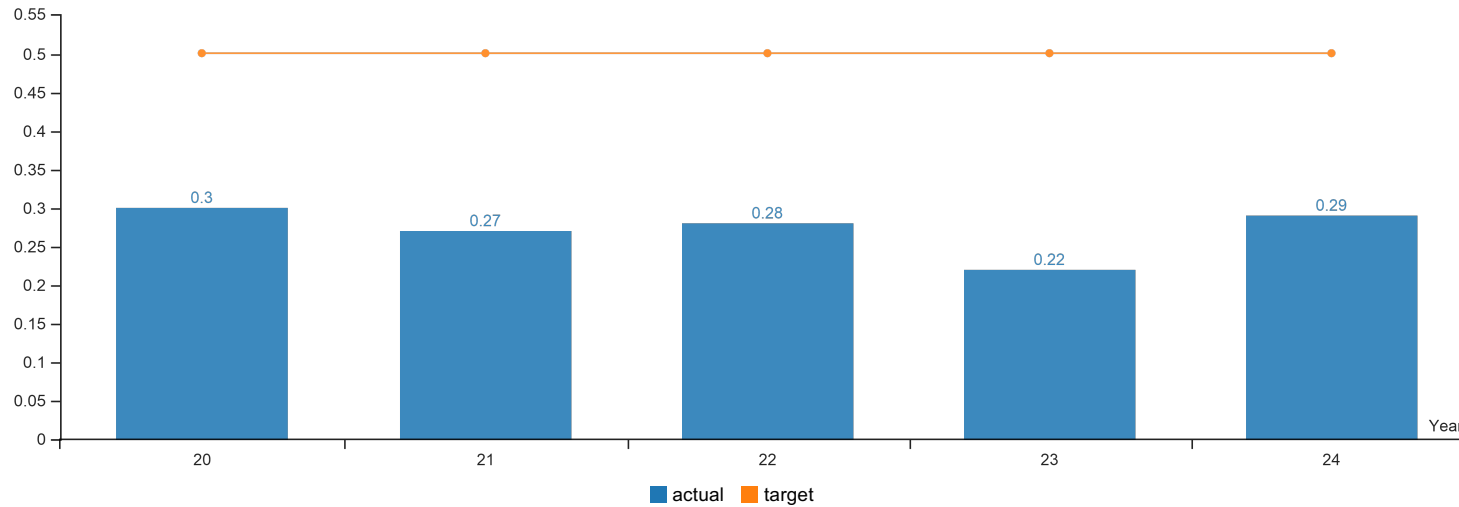
The agency didn't meet the revised target of 5% (15% previously) on this KPM for FY 2023 (7/1/23-6/30/24).

Factors Affecting Results

During the 2024 fiscal year, the number of repeat offenders reported increased above the target level. Several factors may have resulted in this increase. First, the agency has shifted the methodology for providing coverage in the most populated areas. This shift has increased checks in densely populated areas and may have increased success in identifying individuals continuing to operate outside adopted standards. Also, some common violations such as workers compensation and exempt contractor violations can see an uptick if economic times are difficult. Moving forward the agency plans to use a combination of education, increased penalties and utilization of new tools such as license conditioning to bring the measure back into target.

KPM #3	Contractors Who Fail to Pay Damages - Percent of licensed contractors operating in Oregon that fail to pay in full final dispute resolution complaints for damages.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = negative result



Report Year	2020	2021	2022	2023	2024
Percent of Contractors Who Fail to Pay Final Orders					
Actual	0.30%	0.27%	0.28%	0.22%	0.29%
Target	0.50%	0.50%	0.50%	0.50%	0.50%

How Are We Doing

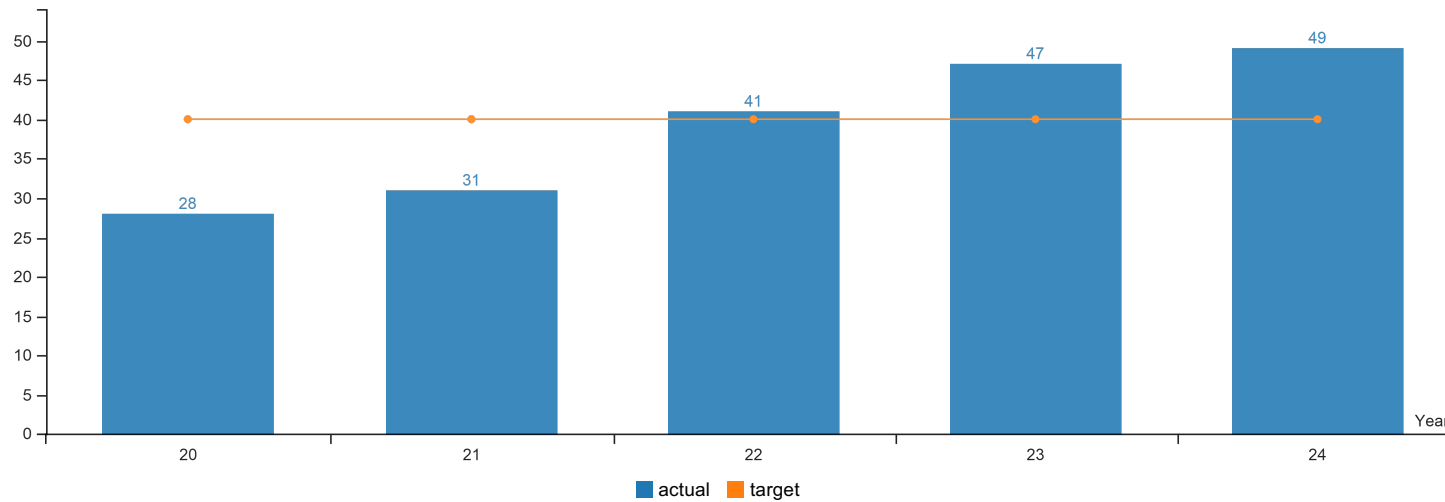
The agency was well under the target maximum for FY 2024 (7/1/23-6/30/24), the agency achieved 29 percent.

Factors Affecting Results

The agency's mediation service offers parties alternative ways to resolve disputes involving minimal cost to complainants. By doing so, contractors who may not be able to pay a large debt have the opportunity to take care of the dispute in a way that preserves their license. Because of the 2011 changes to the Dispute Resolution Services, process complainants are more likely to settle disputes through mediation without going to court. Because a high percentage of the claimants that do go to court use the Small Claims Courts, the contractor's bond is able to act as a backup when the contractor can't pay a judgement award.

KPM #4	Enforcement Investigations - Average days to close an enforcement investigation.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = negative result



Report Year	2020	2021	2022	2023	2024
Enforcement Program - Average Days to Closure					
Actual	28	31	41	47	49
Target	40	40	40	40	40

How Are We Doing

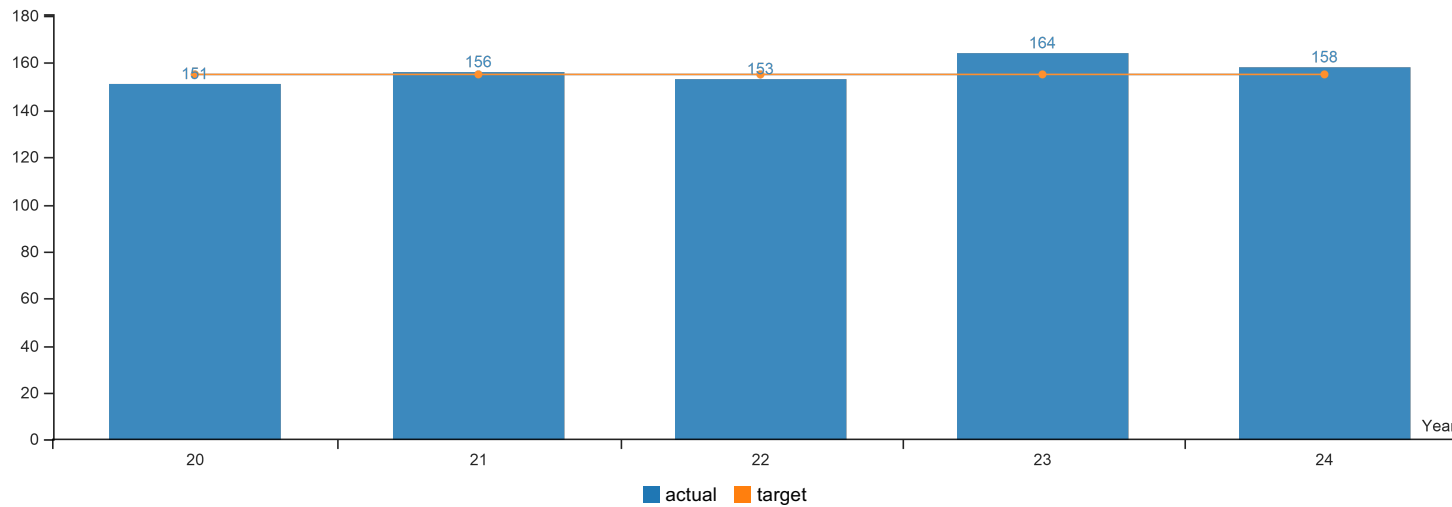
In FY 2024 (7/1/23-6/30/24) CCB has gone beyond the target expectation by 9 days.

Factors Affecting Results

The current target of 40 days can be close when allowing 21 minimum days for due process responses. This KPM is also affected by any additional time needed for the hearings process to take place which is allowed in response to license refusal and all regulatory proposed civil penalties. While the vast majority of violations are resolved or settled within target timeframe, even a handful of hearings with delayed hearing date can have outsized affect on the measure. The agency did see an increase in the number of hearing requests this reporting period. Notwithstanding the increase in hearing requests, the agency has had a positive record of having our findings upheld at hearing. No particular corrective action is deemed needed at this time. The agency will continue to monitor the rate of hearing requests to determine if corrective action or perhaps amending target may be appropriate.

KPM #5	Dispute Resolution Final Orders - Average days to issue a dispute resolution (claims) final order.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = negative result



Report Year	2020	2021	2022	2023	2024
DRS Complaints - Average Days to Final Order					
Actual	151	156	153	164	158
Target	155	155	155	155	155

How Are We Doing

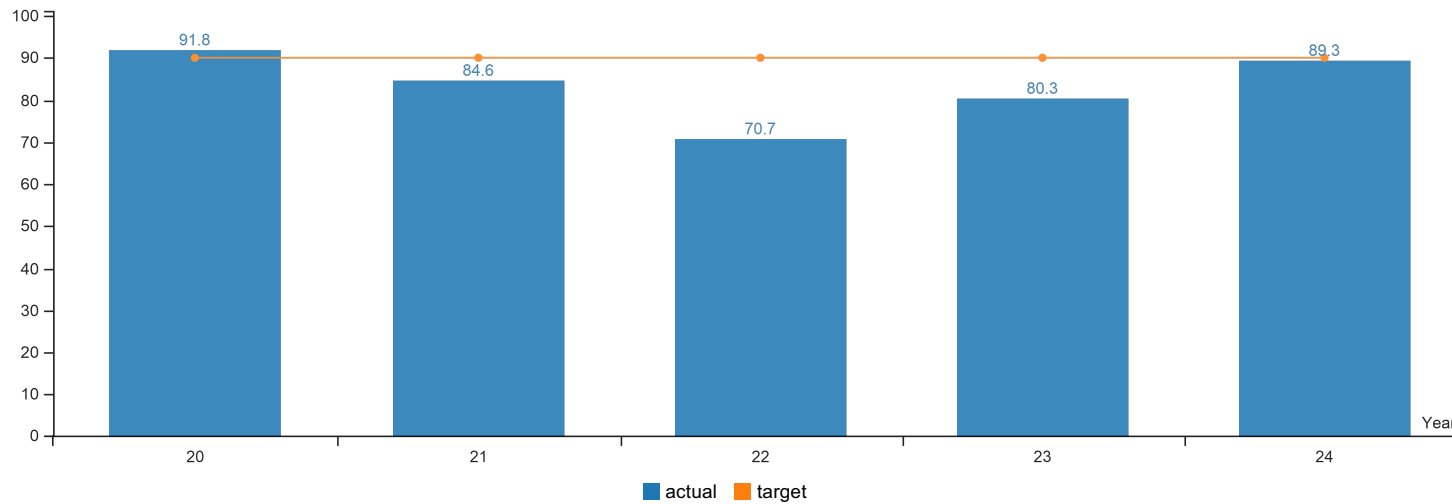
The agency has gone beyond the target expectation by 3 days for FY 2024 (7/1/23-6/30/24).

Factors Affecting Results

The current program offers mediation to the parties in an attempt to reconcile the dispute. If the parties cannot come to an agreement, the complaining party must file a complaint in court. If a judgment is awarded, the complaining party may file the judgment with the agency seeking payment from the contractor's bond. One factor that contributes to the timeliness of our services is the time it takes for a court or arbitration to issue a ruling for parties that chose to file actions. This is not within the scope of the agency's control; it adds to the time calculated for resolution.

KPM #6	Fair and Impartial Dispute Resolution Process - Percent of parties to claims who perceive claims process to be fair and impartial.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2020	2021	2022	2023	2024
DRS Program Customer Satisfaction					
Actual	91.80%	84.60%	70.70%	80.30%	89.30%
Target	90%	90%	90%	90%	90%

How Are We Doing

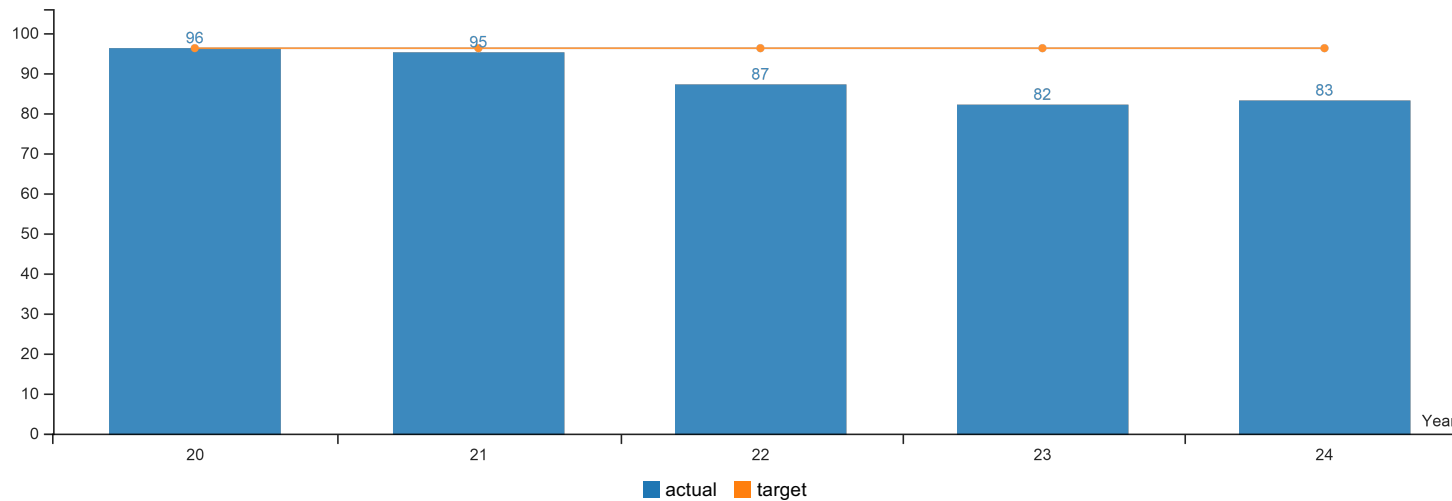
The agency missed its target for FY 2024 by 0.7 (7/1/23-6/30/24).

Factors Affecting Results

The agency continues to evaluate ways to improve the survey results. The outcome of the mediation is likely a driver for the outcome of this survey question. CCB has initiated a workgroup to discuss survey comments and customer satisfaction feedback in an effort to continue trending in the right direction.

KPM #7	License and Renewal Processing - Percent of contractors satisfied with the agency's processing of license and renewal information.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2020	2021	2022	2023	2024
Licensing Customer Satisfaction					
Actual	96%	95%	87%	82%	83%
Target	96%	96%	96%	96%	96%

How Are We Doing

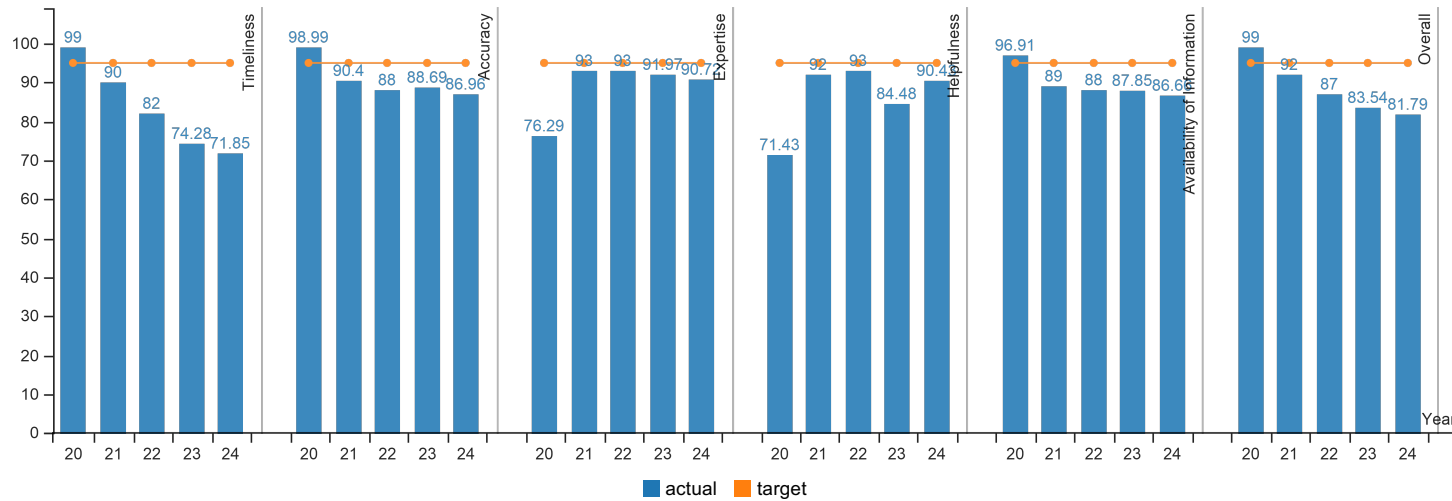
The Licensing section consistently strives for high level of customer satisfaction and has established a very high target to reflect this goal. The agency's performance in FY 2024 (7/1/23-6/30/24) fell below the target for Licensing and Renewal Processing, while still reflecting satisfaction ratings in the mid-80th percentile overall. During FY 2024 the Licensing section developed and deployed a new electronic application program that has reduced the time to issue new licenses by half. The decrease in backlog also resulted in less call volume and shorter phone wait times, both common contributors to negative satisfaction. Overall satisfaction should increase for FY2025 due to this enhancement and the opportunity to be fully staffed in the Licensing section. This enhancement has allowed the section time to broaden the knowledge and skill of existing staff to better serve the customer base. The agency continues to work toward establishing a strong online business culture.

Factors Affecting Results

Staffing issues such as retirements, training replacements and several overlapping leave periods contributed to lower-than normal Q1 satisfaction. Since then, the combination of bringing new staff up to proficiency as well as deploying new electronic tools have improved the speed of processing for new applications and resulted in lower call-volume and thus lower phone wait times. During the period agency also experienced a period of higher than normal new license applications and legislatively required and time-sensitive bond increase for all contractors in Oregon; creating an additional backlog. The agency continues to work on improving its website, streamlining forms and processes, and providing ongoing staff training and outreach about contractor requirements, continuing education, and law and rule changes.

*The detailed response data for Q3 was unfortunately not saved correctly and became partially combined with Q4 responses. Reported Q3 data is a combination of previously reported Q3 averages, validated against prior reporting periods and other data such as narrative survey responses.

KPM #8 Customer Service - Percent of customers rating the agency's customer service as "good" or "excellent". Ratings cover timeliness, accuracy, helpfulness, expertise, availability of information and overall performance.
 Data Collection Period: Jul 01 - Jun 30



Report Year	2020	2021	2022	2023	2024
Timeliness					
Actual	99%	90%	82%	74.28%	71.85%
Target	95%	95%	95%	95%	95%
Accuracy					
Actual	98.99%	90.40%	88%	88.69%	86.96%
Target	95%	95%	95%	95%	95%
Expertise					
Actual	76.29%	93%	93%	91.97%	90.72%
Target	95%	95%	95%	95%	95%
Helpfulness					
Actual	71.43%	92%	93%	84.48%	90.43%
Target	95%	95%	95%	95%	95%
Availability of Information					
Actual	96.91%	89%	88%	87.85%	86.66%
Target	95%	95%	95%	95%	95%
Overall					
Actual	99%	92%	87%	83.54%	81.79%
Target	95%	95%	95%	95%	95%

How Are We Doing

The Licensing section consistently strives for high level of customer satisfaction and has established a very high target to reflect this goal. The agency's performance in FY 2024 (7/1/23-6/30/24) fell below the target for Licensing and Renewal Processing, while still reflecting satisfaction ratings in the mid-80th percentile overall. During FY 2024 the Licensing section developed and deployed a new electronic application program that has reduced the time to issue new licenses by half. The decrease in backlog also resulted in less call volume and shorter phone wait times, both common contributors to negative satisfaction. Overall satisfaction should increase for FY2025 due to this enhancement and the opportunity to be fully staffed in the Licensing section. This enhancement has allowed the section time to broaden the knowledge and skill of existing staff to better serve the customer base. The agency continues to work toward establishing a strong online business culture.

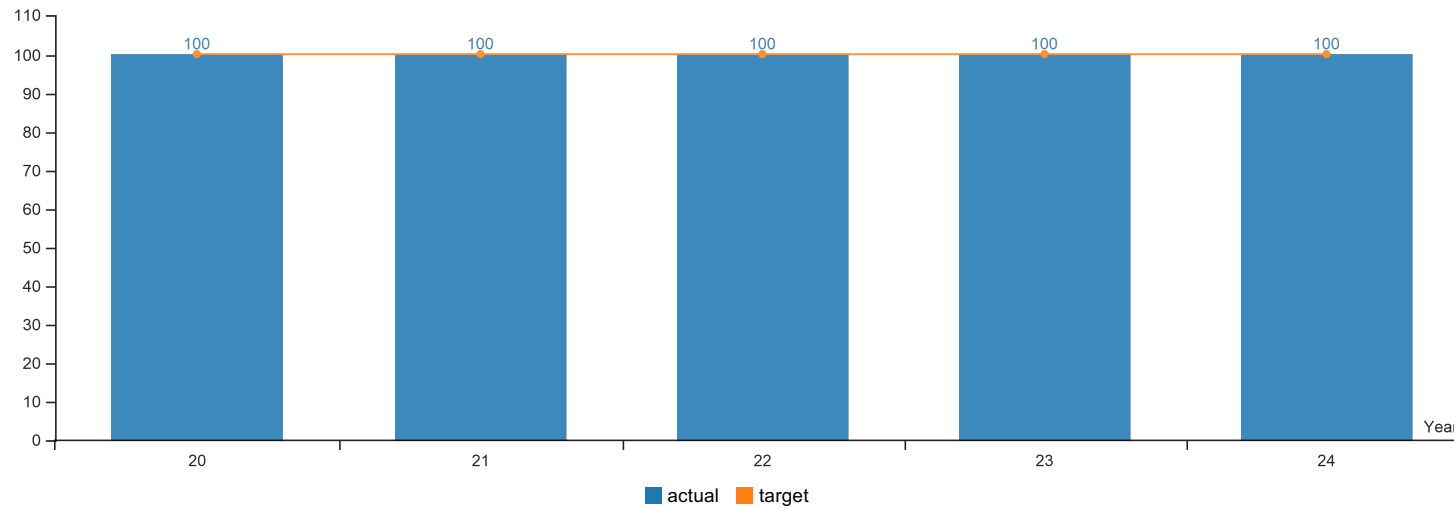
Factors Affecting Results

Staffing issues such as retirements, training replacements and several overlapping leave periods contributed to lower-than normal Q1 satisfaction. Since then, the combination of bringing new staff up to proficiency as well as deploying new electronic tools have improved the speed of processing for new applications and resulted in lower call-volume and thus lower phone wait times. During the period agency also experienced a period of higher than normal new license applications and legislatively required and time-sensitive bond increase for all contractors in Oregon; creating an additional backlog. The agency continues to work on improving its website, streamlining forms and processes, and providing ongoing staff training and outreach about contractor requirements, continuing education, and law and rule changes.

*FY24 is missing quarter three responses. The detailed response data for Q3 was unfortunately not saved correctly and became partially combined with Q4 responses. Reported Q3 data is a combination of previously reported Q3 averages, validated against prior reporting periods and other data such as narrative survey responses.

KPM #9	Best Practices - Percent of best practices met by the Board.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2020	2021	2022	2023	2024
Percent of Yes Responses					
Actual	100%	100%	100%	100%	100%
Target	100%	100%	100%	100%	100%

How Are We Doing

The agency met its target for FY 2024 (7/1/23-6/30/24).

Factors Affecting Results

The partnership between the agency's Administrator and the Board helps the agency achieve 100 percent compliance. Other factors include training of Board members on their roles and responsibilities and identifying opportunities to improve performance and increase transparency.

Identifying Conflicts of Interest

For something to be a conflict of interest underneath Oregon Government Ethics Law, it must meet three criteria [ORS 244.020(1) & (13)]:



Official Action

You must be taking an official action within your role as a public official.

This could be a vote, another decision, or recommendation.



Financial Impact

Your action must create or potentially create a financial impact.

That impact could be a financial benefit or detriment.



Specific People

The financial impact must affect specific people:

You, your relatives, or a business associated with you or your relatives.



Conflict of Interest

Once you've recognized that something meets these criteria and is a conflict of interest, you need to further analyze if it is an **actual conflict of interest** or **potential conflict of interest**.

Actual Conflict of Interest

The financial impact of your action is certain.

For example, you process business permits as part of your public official duties. Your in-laws apply for a permit. You processing their permit would have a certain financial impact; therefore it is an actual conflict of interest.

Potential Conflict of Interest

The financial impact of your action is possible, but not certain.

For example, you are voting on requirements for future city contracts. Your sibling owns a business that could apply for a future city contract. The financial impact is possible, but not certain; therefore it is a potential conflict of interest.

What do you do once you know you have a conflict? Flip the paper over to find out!



Disclosing Conflicts of Interest

When met with a conflict of interest, there are different disclosure requirements depending on the nature of the public official's position.



**Members of the
Legislative Assembly**

- Must announce the nature of the conflict publicly.
- Announcement must be according to the rules of the house of which they are a member, before taking any action on the matter [ORS 244.120(1)(a)].



**Other elected officials
or appointed board and
commission members**

Announce publicly the nature of the conflict of interest. Examples include:

- Announcement during the **public session** of a public meeting.
- Notice on a public webpage.

Then:

- If it is a **potential conflict of interest**, they may continue to participate in the discussion debate or vote on the matter.
- If it is an **actual conflict of interest**, they must refrain from participating in any discussion, debate or vote on the matter [ORS 244.120(2)].

Have questions? Contact us!
Email mail@ogec.oregon.gov
or call 503-378-5105.

Must notify their appointing authority (supervisor, director, etc.) in writing. It must:

- Include the nature of the conflict.
- Request the authority dispose of the matter.

The authority will respond with how to handle the matter. They will either have someone else handle it or give specific instructions on how to proceed. [ORS 244.120(1)(c)].



**Any other appointed
official (including
public employees)**

- Must be removed from the case giving rise to the conflict.
- Or they must advise the parties of the nature of the conflict [ORS 244.120(1)(b)].



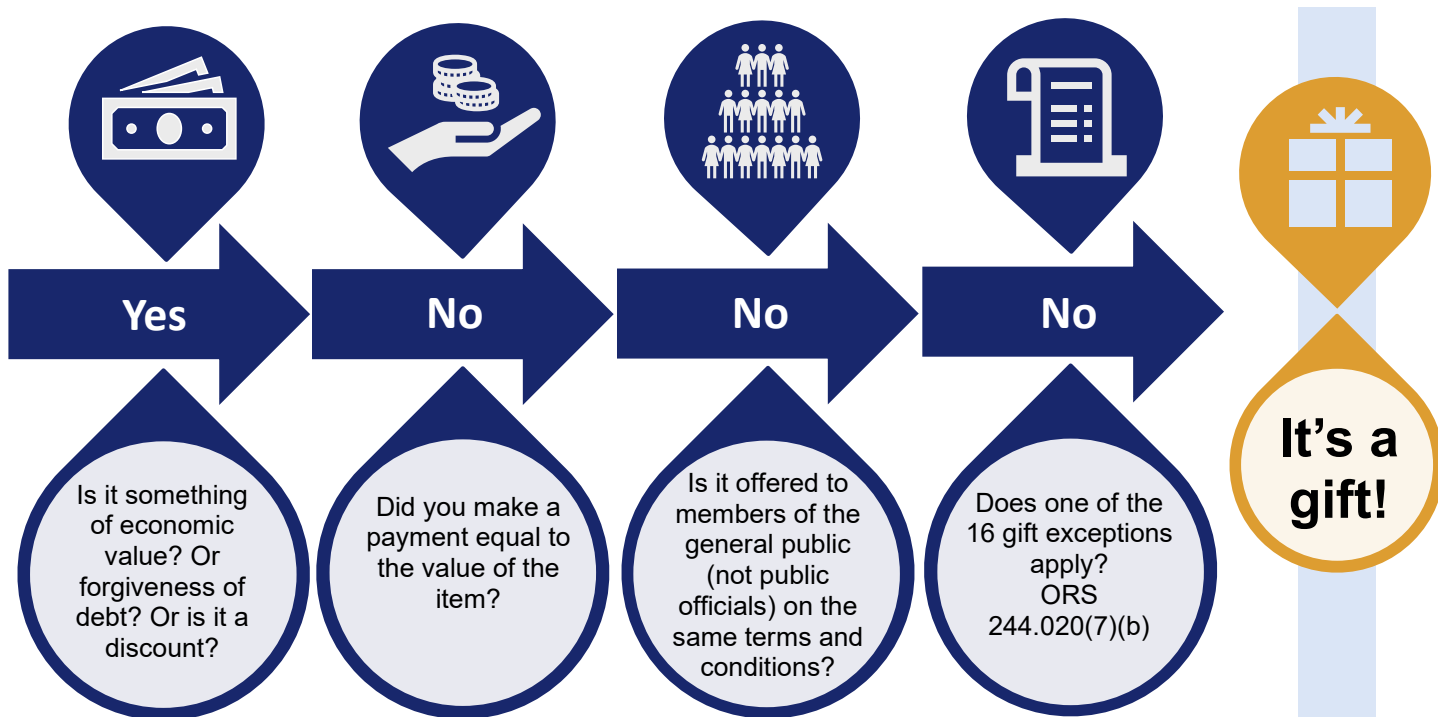
Judges

Minimum Votes Exception: An elected public official (or one serving on a board/commission) may be able to vote with an actual conflict of interest. This exception only applies when their vote is needed to meet the minimum number of votes to take official action. They would still need to make their public disclosure and would not be able to participate in any discussion or debate [ORS 244.120(2)(b)(B)]



Step 1: Is it a gift?

The restrictions in ORS 244.025 limit gifts that can be accepted by a public official, candidate, or a relative, or member of the household of a public official or candidate.



Step 2: Legislative or Administrative Interest?

Who is the source of the gift?

The source is the ultimate payer of the expense.
OAR 199-005-0030

Does the source have a legislative or administrative interest?

Are you in a position where you could take official action that could have an economic impact on the source of the gift that is distinct from that of the general public? ORS 244.020(10)

What is the value of the gift?

What is the fair market value of the item. OAR 199-005-0005

You must keep track of the value of all gifts from the same source during the calendar year.

Step 3: Can you accept the gift?



A GIFT IS: something of economic value not offered to others who aren't public officials (relatives or household members) on the same terms and conditions (ORS 244.020(7)(a))

But an offer is **NOT A GIFT** if it fails to meet the above definition OR if it is offered by the public entity the public official represents.

* However, Prohibited Use of Office (ORS 244.040) may apply

SOURCE OF GIFT...

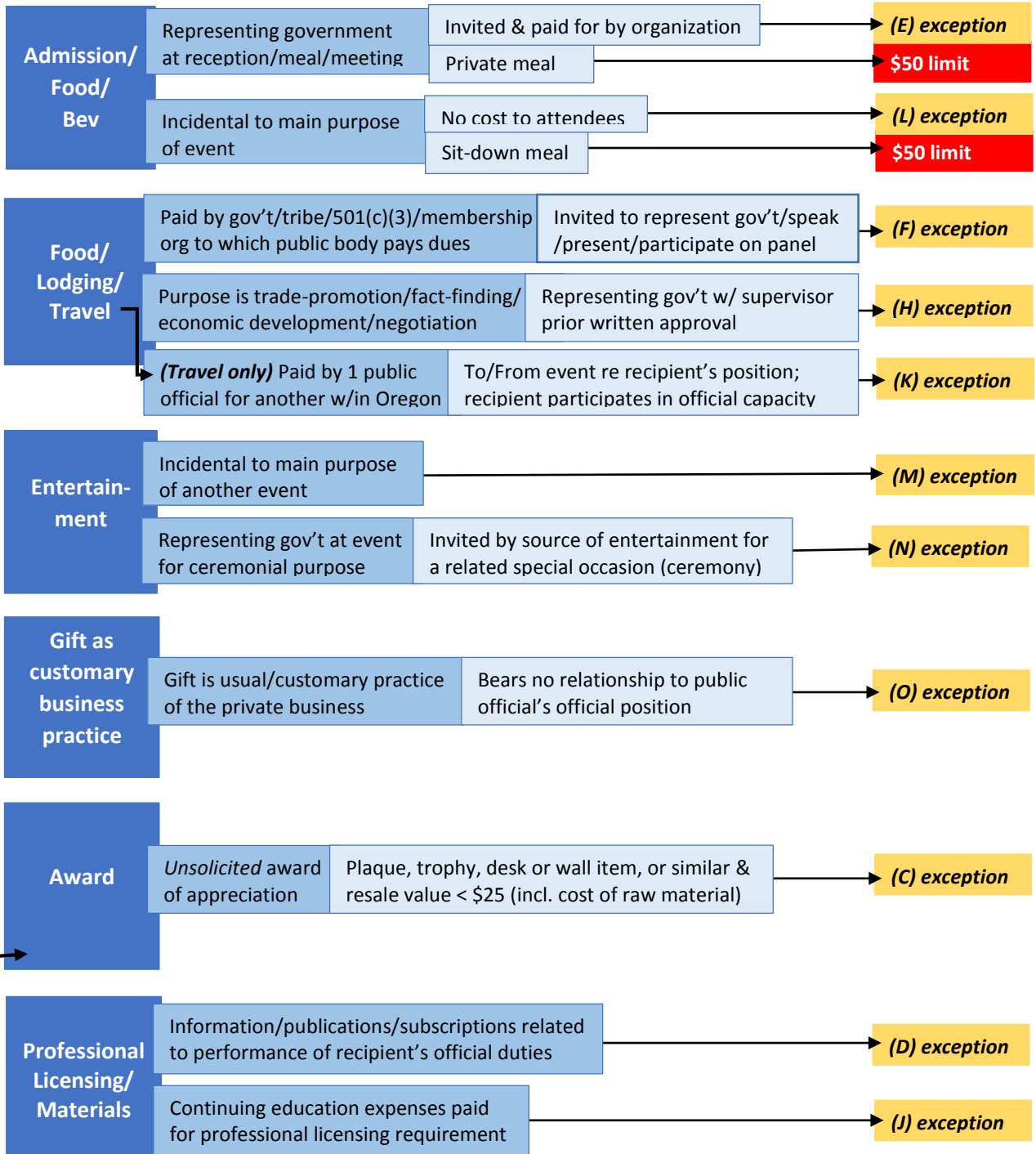
Has NO ECONOMIC INTEREST in matters subject to public official's official decision-making

\$50 GIFT LIMIT DOES NOT APPLY

HAS ECONOMIC INTEREST in matters subject to public official's official decision-making

\$50 LIMIT IF NO EXCEPTION APPLIES

EXCEPTIONS TO THE GIFT LIMIT (ORS 244.020(7)(b)(A)-(O))*





Oregon Government Ethics Commission

Business Flowchart ORS 244.020(2)&(3)

#1 – Is it a business?

Many ORS 244 provisions apply to public officials, their relatives, their household members, and businesses associated with themselves, their relatives, or their household members.

Use the flowcharts provided to determine if an entity is a business and if it is one which a person is associated with:

- Is it a:
- corporation
 - partnership
 - proprietorship
 - firm
 - enterprise
 - franchise
 - association
 - organization
 - self-employed individual
 - or any other legal entity operated for economic gain?

No

Yes

Is it a governmental entity?

Is it an income-producing tax-exempt 501(c) nonprofit corporation?

Yes

Yes

No

It is not a business

Yes

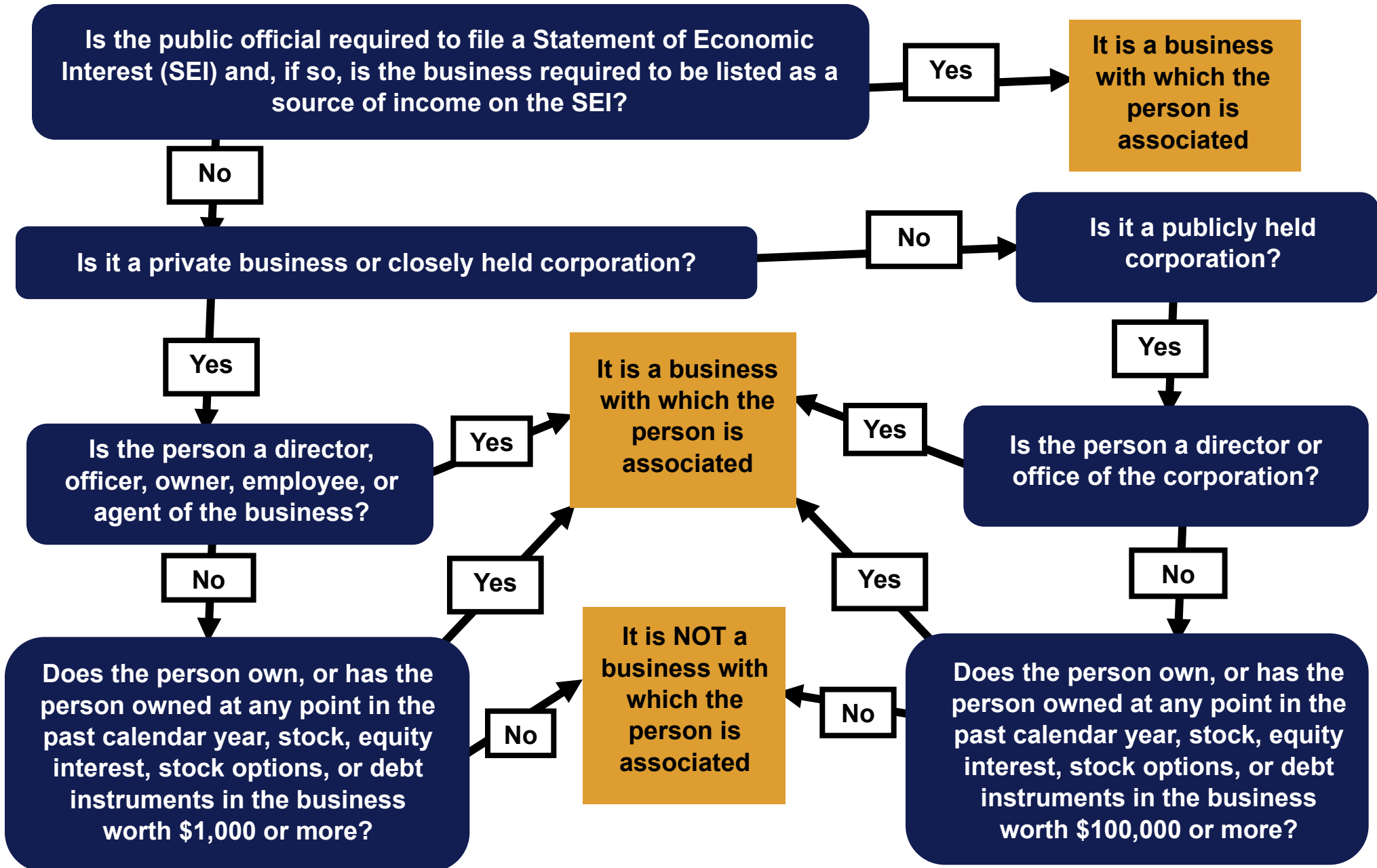
Is the public official or the official's relative or household member associated with the entity only as a member, an unpaid board director, or in an unpaid position?

No

It is a business

This handout should be used as a supplement, not a replacement, for ORS 244 08/24

#2 – Is the business one with which a person is associated?



**OREGON
GOVERNMENT ETHICS
COMMISSION**



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GOVERNMENT ETHICS LAWS OVERVIEW

<p>Prohibited Use of Position or Office (ORS 244.040)</p>	<p>Public officials are prohibited from using or attempting to use their public positions to obtain financial benefits for themselves, relatives, household members, or businesses with which any is associated, if the benefit would not be available but for the public official holding the position.</p>
<p>Financial Interest in Public Contract (ORS 244.047)</p>	<p>A person who ceases to be a public official may not have a direct beneficial financial interest in a public contract (defined at ORS 279A.010) for two years after the date of its authorization, if the person played a significant role in authorizing (<i>i.e.</i>, selecting, executing, recommending, or approving) that public contract as a public official.</p>
<p>Limits to Accepting Gifts (ORS 244.025; see ORS 244.020(10))</p>	<p>Public officials and their relatives are limited to accepting gifts (defined at ORS 244.020(7)) worth no more than an aggregate of \$50 in a given calendar year from any individual source reasonably known to have an economic interest in the public official’s decision-making.</p>
<p>Conflicts of Interest (ORS 244.020(1); ORS 244.020(13); ORS 244.120)</p>	<p>When a public official, in an official capacity, is faced with making a decision, recommendation, or other action that “<i>would</i>” or “<i>could</i>” financially affect the official, a relative, or business with which either is associated, the public official is faced with an “<i>actual</i>” or “<i>potential</i>” conflict. A conflicted <i>member of a governing body</i> must provide notice of the conflict by making a public announcement, and if the conflict is “<i>actual</i>” (<i>i.e.</i>, “<i>would</i>” financially affect...) must refrain from participation in the matter. <i>Most other public officials</i> must provide written notice to a supervisor/employer. Either type of notice must state the nature of the conflict. A written notice must additionally request that the supervisor/employer dispose of the matter.</p>
<p>Nepotism Prohibitions (ORS 244.177 – 179)</p>	<p>Public officials may not directly – or participate in any interview, discussion, or debate to – appoint, employ, promote, discharge, fire, or demote a relative or household member of the public official. Public officials are also prohibited from supervising relatives and household members.</p>

* *NOTE: The terms “business”, “business with which the person is associated”, “member of the household”, “public official”, and “relative” are defined at ORS 244.020(2), (3), (11), (15), and (16), respectively.*

DISCLAIMER: This document presents a brief overview of the most generally applicable Oregon Government Ethics duties and may not account for all relevant laws, exceptions or circumstances. It is ***intended for use as a training tool only and should not substitute for review of ORS Chapter 244 or consultation with an attorney or the Oregon Government Ethics Commission regarding application of the law in a specific situation.***

OREGON GOVERNMENT ETHICS LAW

A GUIDE FOR PUBLIC OFFICIALS



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DISCLAIMER

This guide has been approved by the Oregon Government Ethics Commission pursuant to ORS 244.320. ORS 244.320 requires this publication to explain in understandable terms the requirements of Oregon Government Ethics law and the Oregon Government Ethics Commission's interpretation of those requirements. Toward that end, statutes and rules have been summarized and paraphrased in this guide. The discussion in this guide should not be used as a substitute for a review of the specific statutes and rules.

There may be other laws or regulations not within the jurisdiction of the Commission that apply to actions or transactions described in this guide.

A penalty may not be imposed under ORS Chapter 244 for any good faith action taken in reliance on the advice in this guide. "In reliance on" the advice in this guide means that the fact circumstances of the action taken are the same fact circumstances that serve as the basis for advice in this guide.

TABLE OF CONTENTS

	<u>Page</u>
Introduction	2
Jurisdiction	3
Public Official: An Overview	4
Are You a Public Official?	6
Volunteers as Public Officials	7
Relatives and Household members of Public Officials	7
A Business Associated With a Public Official	8
Conflicts Of Interest	11
Prohibited Use of Official Position	17
Private Employment by Public Officials	22
Private Employment of Former Public Officials	23
Gifts	26
Gifts as an Exception to Prohibited Use of Official Position	33
Nepotism	35
Annual Verified Statement of Economic Interest	37
SEI Form	38
Legal Expense Trust Fund	41
Commission	42
Written Advice/Opinions	42
No "Safe Harbor"	44
Procedures	45
Index	48

INTRODUCTION

In 1974, voters approved a statewide ballot measure to create the Oregon Government Ethics Commission (Commission). The measure established laws that are contained in Chapter 244 of the Oregon Revised Statutes (ORS).

When the Commission was established, it was given jurisdiction to implement and enforce the provisions in ORS Chapter 244 related to the conduct of public officials. In addition, the Commission has jurisdiction for ORS 171.725 to 171.785 and 171.992, related to lobbying regulations, and ORS 192.660 and 192.685, the executive session provisions of Oregon Public Meetings law.

This Guide for Public Officials includes a discussion of some provisions that may also apply to lobbying activities. This is especially true when a lobbying activity involves paying the expenses for meals, lodging, travel, entertainment or other financial benefits of a legislative or executive official. Under specific circumstances, ORS Chapter 244 allows the payment of such expenses, but the public official may have a reporting requirement under ORS Chapter 244 and the source of the payment may be required to register as a lobbyist or report the expenditure. The Commission publishes a guide for lobbyists and clients or employers of lobbyists regulated under provisions in ORS Chapter 171. If you have questions regarding registering as a lobbyist, lobbying activity or reports for lobbying expenditures, please refer to our Guide to Lobbying in Oregon, which is available on our website.

ORS 192.660 lists the specific criteria a governing body must use when convening an executive session. Under this statutory authority, executive sessions are limited to discussion of specific matters. This guide does not discuss that portion of the Oregon Public Meetings law, but there is a detailed discussion of executive sessions, as set out in ORS 192.660, in the Attorney General's Public Records and Meetings Manual, available on-line at <https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/>

This guide will discuss how the provisions in ORS Chapter 244 apply to public officials and will summarize Commission procedures. It should be used in conjunction with applicable statutes and rules, but should not be used as a substitute for a review of the statutes and rules. It is intended to be a useful discussion, in understandable terms, of topics and issues that are often the focus of inquiries the Commission receives from public officials and citizens.

You will find links to ORS Chapter 244, ORS Chapter 171.725 to 171.785 and 171.992, ORS 192.660 and ORS 192.685, relevant Oregon Administrative Rules (OAR), and other publications referenced in this guide on the Commission's website at <https://www.oregon.gov/ogec/Pages/default.aspx>. Questions or comments may be submitted to the Commission by email at ogec.mail@oregon.gov, by telephone to 503-378-5105, or by fax to 503-373-1456.

JURISDICTION

The jurisdiction of the Oregon Government Ethics Commission is limited to provisions in ORS Chapter 244, ORS 171.725 to 171.785 and 171.992, and ORS 192.660 and 192.685. Other Oregon statutes may also regulate the activities of elected officials and public employees. Some examples are:



- The Elections Division of the Secretary of State's Office regulates campaign finance and campaign activities.
- Federal, state, or local law enforcement has jurisdiction over alleged criminal activity.
- The Oregon Bureau of Labor and Industries investigates cases involving employment-related sexual harassment or discrimination on the basis of race, religion, disability or gender.
- The initial enforcement of the Public Records law lies with County District Attorneys and the Department of Justice.
- Enforcement of the Oregon Public Meetings law lies with the Oregon Circuit Courts, except that the Commission also has jurisdiction over the execution session provisions in ORS 192.660 and 192.685.

There are occasions when a public official engages in conduct that may be viewed as "unethical," but that conduct may not be governed by Oregon Government Ethics law. The following are some examples of conduct by public officials that may not be within the authority of the Commission to address:

An elected official making promises or claims that are not acted upon.

Public officials mismanaging or exercising poor judgment when administering public money.

Public officials being rude or unmannerly.

A person's private behavior unrelated to their actions as a public official.

While the conduct described above may not be addressed in Oregon Government Ethics law, other statutes and public agency policies may prohibit or redress the behavior. Please contact the Commission staff if you need further clarification regarding how the Oregon Government Ethics law may apply to circumstances you may encounter.

PUBLIC OFFICIAL: AN OVERVIEW

The provisions in Oregon Government Ethics law restrict some choices, decisions or actions of a public official. The restrictions placed on public officials are different than those placed on private citizens because service in a public office is a public trust and the provisions in ORS Chapter 244 were enacted to provide one safeguard for that trust.

Public officials must know that they are held personally responsible for complying with the provisions in Oregon Government Ethics law. This means that each public official must make a personal judgment in deciding such matters as the use of official position for financial gain, what gifts are appropriate to accept, when to disclose the nature of conflicts of interest, and the employment of relatives or household members. If a public official fails to comply with the operative statutes, a violation cannot be dismissed by placing the blame on the public official's government employer or the governing body represented by the public official.

One provision, which is the cornerstone of Oregon Government Ethics law, prohibits public officials from using or attempting to use their official positions or offices to obtain a financial benefit for themselves, relatives or businesses with which they are associated if that financial benefit or opportunity for financial gain would not otherwise be available but for the position or office held.

Oregon Government Ethics law limits and restricts public officials and their relatives as to gifts they may solicit or accept. Under specific circumstances, public officials may accept certain gifts. This guide will discuss those provisions. Public officials are allowed to receive salary and reimbursed expenses from their own government agencies.

Another provision that frequently applies to public officials when engaged in official actions is the requirement to disclose the nature of conflicts of interest. This guide will discuss the definition of a conflict of interest, the distinction between actual and potential conflicts of interest, and describe how a public official must disclose and dispose of a conflict of interest.

For some public officials who are elected to offices or hold other select positions, there is a requirement to file an Annual Verified Statement of Economic Interest. This guide will discuss that filing requirement.

It is important for both public officials and members of the general public served by public officials to know that the provisions in Oregon Government Ethics law apply to the actions and conduct of individual public officials and not to the actions of state and local governing bodies or government agencies. Each individual public official is personally responsible for complying with provisions in ORS Chapter 244. Before taking official action, making a decision, participating in an event, or accepting a gift that may raise potential ethics law violations, each public official must make a personal judgment. The Commission staff is available to discuss the issues and offer guidance in making such judgments.

The statutes and rules discussed or illustrated in this guide do not and cannot address every set of circumstances a public official may encounter. Since compliance is the personal responsibility of each public official, public officials need to familiarize themselves with the wide variety of resources that offer information or training on the provisions in Oregon Government Ethics law.

In addition to the statutes in ORS Chapter 244 and the Oregon Administrative Rules (OAR) in Chapter 199, see <https://www.oregon.gov/ogec/Pages/default.aspx>, the Commission's website, which offers information, training and links to this guide, ORS Chapter 244 and OAR Chapter 199. The Commission offers a variety of free training resources and many government agencies also offer internal training to their employees or the agencies may request training from the Commission's trainers. There are a number of membership organizations, such as The League of Oregon Cities, Association of Oregon Counties, Oregon School Boards Association and the Special Districts Association of Oregon, that provide training to public officials. It is imperative for government agencies or organizations that employ or represent public officials to ensure their public officials receive training in Oregon Government Ethics law. Those that fail to provide this training do a disservice to the public officials who they employ or who represent them.



A PUBLIC OFFICIAL

Are you a public official?

“Public official” is defined in ORS 244.020 as the First Partner and any person who, when an alleged violation of ORS Chapter 244 occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

There are approximately 200,000 public officials in Oregon. You are a public official if you are:

- The First Partner, defined as the spouse, domestic partner or an individual who primarily has a personal relationship with the Governor.
- Elected or appointed to an office or position with a state, county, regional, or city government.
- Elected or appointed to an office or position with a special district.
- An employee of a state, county, city, intergovernmental agency or special district.
- An unpaid volunteer for a state, county, regional, city, intergovernmental agency, or special district.
- An agent of the State of Oregon or any of its political subdivisions.

The Commission has adopted, by rule, additional language used to clarify the use of “agent” in the definition of “public official.” The following clarification is in OAR 199-005-0035(7):

As defined in ORS 244.020(15), a public official includes the First Person and anyone serving the State of Oregon or any of its political subdivisions or any other public body in any of the listed capacities, including as an “agent.” An “agent” means any individual performing governmental functions. Governmental functions are services provided on behalf of the government as distinguished from services provided to the government. This may include private contractors and volunteers, depending on the circumstances. This term shall be interpreted to be consistent with Attorney General Opinion No. 8214 (1990).

If I am a volunteer, does that make me a public official?

The Commission recognizes that there are those who volunteer to work without compensation for many state and local government agencies, boards, commissions and special districts. Volunteers may be elected, appointed or selected by the government agency or public body to hold a position or office or to provide services. Among the public officials who volunteer, there are elected or appointed members of state boards or commissions, city councils, planning commissions, fire district boards, school district boards, and many others. There are also many who apply and are selected to perform duties for a government agency, board or commission without compensation, such as firefighters, reserve law enforcement officers, and parks or recreation staff members.

If the position for which you have volunteered serves the State of Oregon or any of its political subdivisions or any other public body, irrespective of whether you are compensated, you are a public official.

How are relatives and household members of public officials affected by Oregon Government Ethics law?

Public officials must always comply with state law when participating in official actions that could result in personal financial benefits and also when participating in official actions that could result in financial benefits for a relative or household member. Public officials should also know there may be limits and restrictions on gifts their relatives or household members may accept when offered.

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using or attempting to use official actions of the position held to benefit a relative or household member, limit the value of financial benefits accepted by a relative or household member of the public official, or require the public official to disclose the nature of a conflict of interest when a relative may receive a financial benefit. There are provisions that place restrictions on a public official regarding the employment or supervision of a relative or household member. These provisions are discussed more comprehensively in the use of position or office section starting on page 17, the gifts section starting on page 26, the conflicts of interest section starting on page 11, and the nepotism section starting on page 35.

Who is a relative?

Public officials need to know how Oregon Government Ethics law defines a “relative.” In everyday conversation the term “relative” is applied to a spectrum of individuals with “family ties” broader than those defined as relatives in ORS 244.020(16). When a provision in ORS Chapter 244 refers to “relative,” it means one of the following:

- The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;
- The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of

- the spouse of the public official or candidate;
- Any Individual for whom the public official or candidate has a legal support obligation
- Any Individual for whom the public official provides benefits arising from the public official's public employment
- Any Individual from whom the public official or candidate receives benefits arising from the individual's employment.

For purposes of the last two bulleted items, examples of benefits may include, but is not limited to, elements of an official compensation package such as insurance, tuition or retirement benefits.

Who is a “member of the household”?

Public officials need to know how Oregon Government Ethics law defines “member of the household” because there are provisions in ORS Chapter 244 that prohibit a public official from using or attempting to use their official position to financially benefit a member of their household.

A “member of the household” is any person who resides with the public official or candidate. [ORS 244.020] This definition includes any individual who resides in the same dwelling as the public official, regardless of whether that individual pays rent or not, and regardless of whether that individual is a relative or not.

What is a business with which a person is associated?

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using their position to benefit a business with which the public official or the public official's relative or household member is associated. Other provisions also require the public official to disclose the nature of a conflict of interest when their official actions would or could financially impact a business with which the official or their relative is associated.

As with the definition of relative, public officials need to know how Oregon Government Ethics law defines what a “business” is and how it defines a “business with which the person is associated.” The same sound judgment a public official exercises when participating in actions that could result in a financial benefit to the public official or a relative of the public official should be used when participating in actions that could result in a financial impact to a business with which the public official or the official's relative is associated.

ORS 244.020(2) provides the definition of a “**business**” for the purposes of the application of Oregon Government Ethics law. A “business” is a self-employed individual and any legal entity that has been formed for the purpose of producing economic gain.

- Excluded from this definition are income-producing corporations that are not-for-profit and tax exempt under section 501(c) of the Internal Revenue Code, if a public

official or a relative is associated only as a member, as a member of the board of directors, or in another unpaid position.

Example: An elected County Commissioner is a member of a credit union that operates without profit and is tax exempt under section 501(c) of the Internal Revenue Code. Because the public official is associated with the credit union only as a member, the credit union is not considered a “business” under the definition in Oregon Government Ethics law.

Example: The son of an elected city councilor is a teller employed by a credit union that operates without profit and is tax exempt under section 501(c) of the Internal Revenue Code. Because the public official’s relative is a paid employee of the credit union, the city councilor’s association with the credit union does not meet the exclusion above, and the credit union would be considered a “business” under the definition in Oregon Government Ethics law.

- Also excluded from the definition of business are entities, such as state and local governments or special districts, which are not formed for the purpose of producing income.

Example: An advisory board for the Department of Education awards grants to county, city or other local government entities. The advisory board’s members include public officials who are employed by a city police department and by a local fire district. These public officials would not have conflicts of interest when awarding grants to the city or to the fire district, because these government entities do not meet the statutory definition of a “business.”

Once a public official determines that an entity qualifies as a “business,” the public official must also determine if it is a “business with which the person is associated.” In accordance with ORS 244.020(3), a business is a “**business with which the person is associated**” for a public official or the relative or household member of the public official in any of the following circumstances:

- When a person, or their relative is a director, officer, owner, employee or agent of a private business or a closely held corporation.

Example: The Eugene City Recorder is a public official and her daughter is the president and owner of a private landscaping business. That business would be “a business with which the City Recorder’s relative is associated.”

- When a person or their relative currently holds, or held during the preceding calendar year, stock, stock options, an equity interest or debt instrument worth \$1,000 or more in a **private business or closely held corporation**.

Example: The Mayor of Seaside’s brother currently holds an equity interest of more than \$1,000 in a private business owned by a college friend. This would be a “business with which the Mayor’s relative is associated.”

- When a person or their relative currently owns, or has owned during the preceding calendar year, stock, stock options, an equity interest, or debt instruments of \$100,000 or more in a **publicly held corporation**.

Example: The procurement officer for the City of Portland recently inherited stock worth \$110,000 in Nike, which is a publicly held corporation. Nike is a “business with which the procurement officer is associated.”

- When a person or their relative is a director or officer of a **publicly held corporation**.

Example: A Planning Commissioner for Washington County is the son of a member of the Board of Directors for Intel, a publicly held corporation. Intel is a “business with which the Planning Commissioner’s relative is associated.”

- When a public official is required by ORS 244.050 to file an Annual Verified Statement of Economic Interest and the business is required to be listed as a source of household income, per ORS 244.060.

Example: A Bend city councilor is required to file an Annual Verified Statement of Economic Interest (SEI). A member of the city councilor’s household, not a relative, is a paid employee of a private business. The private business which employs the household member would be a “business with which the city councilor is associated” if it provides 10% or more of the councilor’s annual household income.



CONFLICTS OF INTEREST

How does a public official know when they are met with a conflict of interest and, if met with one, what must they do?

Oregon Government Ethics law identifies and defines two types of conflicts of interest. An **actual conflict of interest** is defined in ORS 244.020(1) and a **potential conflict of interest** is defined in ORS 244.020(13). In brief, a public official is met with a conflict of interest when participating in official action which would or could result in a financial benefit or detriment to the public official, a relative of the public official or a business with which either is associated.



The difference between an actual conflict of interest and a potential conflict of interest is determined by the words “**would**” and “**could**.” A public official is met with an **actual** conflict of interest when the public official participates in an official action, decision, or recommendation that **would** affect the financial interest of the official, their relative, or a business with which they or their relative is associated. A public official is met with a **potential** conflict of interest when the public official participates in an official action, decision, or recommendation that **could** affect the financial interest of the official, their relative, or a business with which they or their relative is associated. The following hypothetical circumstances are offered to illustrate the difference between actual and potential conflicts of interest and what is not a conflict of interest:

- **POTENTIAL CONFLICT OF INTEREST:** A school district has decided to construct a new elementary school and the school board is at the stage of developing criteria for the construction bid process. A recently elected school board member’s son owns a construction company in town. The school board member would be met with a potential conflict of interest when participating in official actions to develop the bid criteria, because the official actions she takes **could** financially impact her son’s construction company, a business with which her relative is associated.
- **ACTUAL CONFLICT OF INTEREST:** A school district is soliciting bids for the construction of a new elementary school. The bid deadline was last week and the district Superintendent has notified the school board that there are four qualified bids and the school board will be awarding the bid to one of the four bidders at their upcoming meeting. One of the qualified bids was submitted by the construction company owned by a school board member’s son. The school board member would be met with an actual conflict of interest when awarding this bid because the effect of her decision **would** have a financial impact (either positive or negative) on her son’s construction company, a business with which her relative is associated.

- **NO CONFLICT OF INTEREST:** A school district is soliciting bids for the construction of a new elementary school. One of the qualified bids was submitted by a construction company owned by a board member's best friend but neither the board member nor any relative are associated with the construction company. The school board member would **not** be met with a conflict of interest when awarding this bid because the effect of her official decision **would not or could not** have a financial impact on herself, a relative, or a business with which she or her relative is associated.

What if I am met with a conflict of interest?

A public official must announce or disclose the nature of a conflict of interest. The way the disclosure is made depends on the position held. The following public officials must use the methods described below:

Legislative Assembly:

Members must announce the nature of the conflict of interest in a manner pursuant to the rules of the house in which they serve. The Oregon Attorney General has determined that only the Legislative Assembly may investigate and sanction its members for violations of conflict of interest disclosure rules in ORS 244.120. [49 Op. Atty. Gen. 167 (1999) issued on February 24, 1999]

Judges:

Judges must remove themselves from cases giving rise to the conflict of interest or advise the parties of the nature of the conflict of interest. [ORS 244.120(1)(b)]

Public Employees:

Public officials who are hired as public employees, agents, or who volunteer with their public bodies must provide **written notice** to the person who appointed or employed them (their "appointing authority"). The notice must describe the nature of the conflict of interest with which they are met and request that their appointing authority dispose of the conflict. This written disclosure to the appointing authority satisfies the requirements of ORS 244.120 for the employee. The appointing authority must then designate an alternate person to handle the matter or direct the public official in how to dispose of the matter. [ORS 244.120(1)(c)]

Example of Disclosure and Disposal: A County employee's job includes issuing building permits. An application concerns property owned by the employee's stepfather. The employee would be met with a conflict of interest and would need to make a written disclosure of his conflict to his appointing authority, in this case his department supervisor, and ask that the supervisor dispose of the conflict. Once the employee makes the written disclosure, he has complied with the conflict of interest statute. Upon receipt of a written disclosure from an employee, the supervisor must respond by either delegating an alternative person to handle the matter or directing the public official in how to dispose of the matter. **Note:** If the supervisor directs the public official to dispose of the conflict by handling his

relative's permit the same as any other permit, the supervisor could be asking an employee to take official actions that may violate the prohibited use of position statute, ORS 244.040(1). See page 17.

Elected Officials or Appointed Members of Boards and Commissions:

Elected officials (other than legislators) and those appointed to Boards and Commissions must publicly announce the nature of the conflict of interest before participating in any allowable official action on the issue giving rise to the conflict of interest. [ORS 244.120(2)(a) and ORS 244.120(2)(b)] The announcement must be made in a public meeting, or if no public meeting is available, by other means reasonably determined to notify members of the public of the public official's disclosure. For elected officials who do not hold regular public meetings, such as a Sheriff, District Attorney, or the Secretary of State, other means of compliance could be through a press release or by posting the disclosure on the public body's website.

- **Potential Conflict of Interest:** Following the public announcement of the nature of a potential conflict of interest, elected officials (other than legislators) and those appointed to Boards and Commissions, may participate in official action on the issue that gave rise to the conflict of interest.

Example: A city has decided to solicit bids to develop a new computer system and the city councilors are developing criteria for the bid process. A city councilor's brother works for an IT firm in town. The councilor would be met with a **potential** conflict of interest when participating in official actions to develop the bid criteria, because the official actions she takes **could** financially impact her brother's employer, a business with which her relative is associated. The councilor should publicly disclose the nature of her conflict of interest at the council meeting when the development of bid criteria comes up for consideration. Following the public disclosure, she may continue to participate in discussions and votes on the issue.

- **Actual Conflict of Interest:** Following the public announcement of the nature of an actual conflict of interest, the public official must ordinarily refrain from further participation in official action on the issue that gives rise to the conflict of interest. [ORS 244.120(2)(b)(A)]

Example: The city council is meeting to award a bid for a new IT project. Qualified bidders include a company that employs a city councilor's brother. The city councilor has an **actual** conflict of interest because the effect of her decision **would** have a financial affect, whether positive or negative, on a business with which her brother is associated. The city councilor must publicly announce the nature of her conflict of interest at the meeting and then refrain from any discussion or vote on the matter.

Exception: If a public official is met with an actual conflict of interest and the public official's vote is necessary to meet the minimum number of votes required for official action, the public official may vote. The public official must make the required announcement of their conflict of interest and refrain from any discussion or debate, but may participate in the vote required for official action by the governing body. [ORS 244.120(2)(b)(B)]

Example: In the scenario above, the city councilor would be met with an actual conflict of interest. The city council has 5 members and it takes 3 votes for board action. At the time of this meeting, one seat is vacant, another member is absent, and the member with the actual conflict is present, but conflicted, leaving the city council without the requisite 3 votes to take action. In this instance, following her public disclosure, the conflicted city councilor must refrain from any discussion or debate on the issue, but she may vote in order for the council to take action. Alternatively, the council may choose to delay the vote until a later meeting when more city councilors are present.

The following circumstances may exempt a public official from the requirement to make a public announcement or give a written notice describing the nature of a conflict of interest:

- If the conflict of interest arises from a membership or interest held in a particular business, industry, occupation or other class **and** that membership is a prerequisite for holding the public official position. [ORS 244.020(13)(a)]

Example: The Oregon Medical Board requires that one Board member must be a practicing physician, any official action taken by the physician board member that affects all physicians to the same degree would be exempt from the conflict of interest requirements. The physician Board member need not disclose a conflict of interest and may participate in taking official action on the issue.

- If the financial impact of the official action would impact the public official, their relative, or a business with which they or their relative is associated, to the same degree as other members of an identifiable group or "class." The Commission has the authority to identify a group or class and determine the minimum size of that "class." [ORS 244.020(13)(b) and ORS 244.290(3)(a)] The number of persons affected **to the same degree** as the public official will help to determine whether this exception applies.

Only the Commission may determine whether a "class" exemption exists. A written request must be made to the Commission to make that determination in advance. If a public official determines that a "class" exception applies in their situation, without benefit of Commission advice, the Commission may later determine that a "class" exception does not apply to the situation, and could find a violation.

Example: A city council is considering a change to the local transient lodging tax collected and remitted to the city by hotels and motels. One of the city councilors owns a motel. The effect of official actions taken by the city councilor concerning this tax would impact all motel owners within the city. The Commission may determine that the city councilor is part of an identifiable group or “class” of 200 city motel/hotel owners, who would be affected to the same degree and thus exempt from the conflict of interest disclosure and participation restrictions.

Example: A city council is considering a change to the local transient lodging tax collected and remitted to the city by motels. One of the city councilors is a motel owner. The effect of official actions taken by the city councilor concerning this tax would impact all motel owners within the city. The Commission declined to find that the class exemption applies due to the size of the “class” because there are only 3 motels in the city, 2 of which are owned by the councilor. The class exemption would not apply in these circumstances and the councilor must comply with the conflict of interest disclosure and participation restrictions.

Example: A city council is considering a proposal to construct a by-pass route around the city’s business district. The city’s business district includes many businesses and restaurants, including a coffee shop owned by one of the city councilors and a drive-thru espresso stand owned by another resident. The effect of the by-pass would not affect all business owners in the city to the same degree. The class exemption would not apply in these circumstances and the councilor who owns the coffee shop must comply with the conflict of interest disclosure and participation restrictions.

- If the conflict of interest arises from a directorship on the board of, or membership in, a nonprofit corporation that is tax-exempt under 501(c) of the Internal Revenue Code. [ORS 244.020(13)(c)]

Example: A city councilor is also a board member of the local YMCA, a tax-exempt 501(c) organization. The decision, as a city councilor, to award a grant to that YMCA would be exempt from the conflict of interest disclosure and participation restrictions. [ORS 244.020(13)(c)]

How is the public announcement or written disclosure of the nature of a conflict of interest recorded?

- The public body served by the public official is required to record the disclosure of the nature of the conflict of interest in the public body’s official records (e.g. personnel file, meeting minutes, audio/video recording). It is to the public official’s benefit to ensure their conflict disclosure is recorded in their public body’s records. [ORS 244.130(1)]

Is a public official required to make an announcement of the nature of a conflict of interest each time the issue giving rise to the conflict of interest is discussed or acted upon?

Each time a public official is met with a conflict of interest, the nature of the conflict must be disclosed.

- For example, an elected member of the city council when met with a conflict of interest would have to make the public announcement one time, but only one time, **in each meeting** of the city council when the matter was raised. If the matter giving rise to the conflict of interest is raised at another meeting, the disclosure must be made again at that meeting.
- Public officials who are employees would need to submit separate written notices on each occasion when a conflict of interest arises. As an example, an employee in a city planning department would have to give a separate written notice before each occasion when they needed to take an official action involving property owned by a relative. [ORS 244.120(3)]

If a public official failed to announce the nature of a conflict of interest and participated in official action, is the official action voided?

- **No.** Any official action that is taken may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest. [ORS 244.130(2)] Even though the action may not be voided, the public official could face potential personal liability for the violation.



USE OF POSITION OR OFFICE

What are the provisions of law that prohibit a public official from using the position or office held for financial gain or avoidance of financial detriment?

ORS 244.040(1) prohibits every public official from using or attempting to use the position held as a public official to obtain a financial benefit, if the opportunity for the financial benefit would not otherwise be available but for the position held by the public official. The prohibited financial benefit can be either an opportunity for personal financial gain or an opportunity to avoid incurring a personal expense.



Not only is a public official prohibited from using the position as a public official to receive personal financial benefits, but the public official is prohibited from using or attempting to use their position as a public official to obtain financial benefits for a relative or a member of the public official's household. Also prohibited is using or attempting to use the public official's position to obtain financial benefits for a business with which the public official, a relative, or a member of the public official's household is associated.

There are a variety of actions that a public official may take or participate in that could constitute the prohibited use or attempted use of the public official's position. The use of a position could be voting in a public meeting, placing a signature on a government agency's document, making a recommendation, making a purchase with government agency funds, or using a government agency's time or resources (computers, vehicles, machinery) to obtain a personal financial benefit or avoid a personal cost.

The following examples are offered to illustrate what may constitute prohibited use or attempted use of office or position. Please note that this is not an exhaustive list:

- The mayor of a city signs a contract obligating the city to pay for janitorial services provided by a business owned by the mayor's relative.
- An executive director of an agency is ordering 10 new laptops for the agency, which qualifies for a bulk purchase discount of \$150 per laptop. He adds 2 laptops for his family to the agency's order to personally take advantage of the discount, and then reimburses the agency for the discounted cost of his personal laptops.
- A city billing clerk alters water use records so that the amount billed to the clerk's parents will be less than the actual amount due.
- A volunteer firefighter borrows the fire district's power washer to prepare the exterior of the volunteer's personal residence for painting.
- A county public works employee stores a motor home that is owned by the employee's parents in a county building used for storing heavy equipment.
- An employee of a state agency has a private business and uses the agency's computer to conduct the activities of the private business.

- A county commissioner uses the county's pickup truck to haul his own personal boat to and from his vacation home.
- A school district superintendent hires her sister's consulting business to provide an in-service training to teachers in her district.
- A teacher solicits her students' parents to hire her for paid tutoring services.

NOTE: While these examples are offered to illustrate the use of a public official's position prohibited by ORS 244.040(1), the examples illustrate occasions where a public official may also be met with a conflict of interest as defined in ORS 244.020(1) and (13). The provisions in ORS 244.040 apply regardless of whether a public official has properly disclosed a conflict of interest. [ORS 244.040(7)]. For further information, refer to the detailed discussion of conflicts of interest starting on page 11.

There are some additional prohibitions on how current and even former public officials use their offices or positions.

- ORS 244.040(3) prohibits a public official from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the public official's vote, official action or judgment.
- Public officials often have access to or manage information that is confidential and not available to members of the general public. ORS 244.040(4) specifically prohibits public officials from using or attempting to use confidential information gained because of the position held to further their own personal gain.
- ORS 244.040(5) prohibits a **former** public official from attempting to use confidential information for **any** person's financial gain if that confidential information was obtained while holding the position as a public official, from which access to the confidential information was obtained.
- ORS 244.040(6) also has a single provision to address circumstances created when public officials, who are members of the governing body of a public body, own or are associated with a specific type of business. The type of business is one that may occasionally send a representative of the business to appear before the governing body on behalf of a client for a fee. Public officials who are members of governing bodies and who own or are employed by businesses, such as a law, engineering, or architectural firm, may encounter circumstances in which this provision may apply.

Example: A member of a city council is an architect. A client developer of the architect's firm has a proposed subdivision to be approved by the city council. The architect/councilor may not appear before the city council on behalf of the client developer. Another person from the architect's firm may represent the client developer before the city council, but not the architect/councilor.

Aside from ORS 244.040, are there other prohibitions on public officials using their positions to avoid a personal financial detriment?

Yes. ORS 244.049 prohibits a holder of public office or candidates for public office from using public moneys or moneys received from a third party to make payments in connection with a non-disclosure agreement relating to workplace harassment if the alleged harassment occurred when the holder of public office or candidate was acting in that capacity. This prohibition applies to a person holding, or a candidate for, any elected state, county, district, city office or position.

Are there any circumstances in which a public official may use their position to accept financial benefits that would not otherwise be available but for holding the position as a public official?

Yes. ORS 244.040(2) provides a list of financial benefits that would not otherwise be available to public officials but for holding the position as a public official. The following financial benefits are not prohibited and may be accepted by a public official, and some may also be accepted by a public official’s relative or member of the public official’s household:

Not Prohibited:

- **Official Compensation:** Public officials may accept any financial benefit that is identified by the public body they serve as part of the “official compensation package” of the public official. If the public body identifies such benefits as salary, health insurance or various paid allowances in the employment agreement or contract of a public official, those financial benefits are part of the “official compensation package.” [ORS 244.040(2)(a)]



OAR 199-005-0035(3) provides a definition of “official compensation package”:
An “official compensation package” means the wages and other benefits provided to the public official. To be part of the public official’s “official compensation package”, the wages and benefits must have been specifically approved by the public body in a formal manner, such as through a union contract, an employment contract, or other adopted personnel policies that apply generally to employees or other public officials. “Official compensation package” also includes the direct payment of a public official’s expenses by the public body, in accordance with the public body’s policies.

- **Reimbursement of Expenses:** A public official may accept payments from the public official’s public body as reimbursement for expenses the public official has personally paid while conducting the public body’s business. [ORS 244.040(2)(c)]



The “reimbursement of expenses” means the payment by a public body to a public official serving that public body, of expenses incurred in the conduct of official duties on behalf of the public body. Any such repayment must comply with any applicable laws and policies governing the eligibility of such repayment. [OAR 199-005-0035(4)]

If the payment of a public official’s personal expenses does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244. There are occasions when someone will refer to the payment of a public official’s expenses by a person or entity other than the public official’s public body as a reimbursement of expenses. That is not the reimbursement of expenses as used in ORS 244.040(2)(c) and defined in OAR 199-005-0035(4).

- **Honoraria:** Most public officials are allowed to accept honoraria by ORS 244.040(2)(b) as defined in ORS 244.020(8). A public official must know how an honorarium is defined because there are many occasions when someone will offer them a financial benefit and call it an honorarium, but it does not meet the definition of honorarium in ORS 244.020(8).



For a payment to be defined as an honorarium, it must be made for a service, like a speech or other service rendered in connection with an event, for which no price is set and for which the public official required no fixed amount to be paid in return for providing the service. A payment or something of economic value given to a public official in exchange for services provided by the public official is an honorarium when the setting of the price has been prevented by custom or propriety.

A public official may not receive an honorarium when performing a service in the course of their duties as a public official. A public official may not accept honoraria if the value exceeds \$50, unless the honoraria is received for services performed in relation to the private profession, occupation, avocation, or expertise of the public official or candidate. [ORS 244.042(3)(a) and (b)].

Public officials must be sure, when they are offered a payment or something of economic value and it is referred to as an honorarium, that it does meet the definition in ORS 244.020(8). If it does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244.

NOTE: The Governor, First Partner, Secretary of State, State Treasurer, Attorney General, and Commissioner of the Bureau of Labor and Industries are explicitly prohibited by ORS 244.042(4) from soliciting or receiving an honorarium, money or any other consideration for **any** speaking engagement or presentation.

- Awards for Professional Achievement: Public officials may accept an award, if the public official has not solicited the award, and the award is offered to recognize a professional achievement of the public official. [ORS 244.040(2)(d)]



Awards for professional achievement should not be confused with awards of appreciation, allowed by ORS 244.020(7)(b)(C), an honorarium allowed by ORS 244.040(2)(b), or gifts that are allowed or restricted by other provisions in ORS Chapter 244.

Awards for professional achievement are best illustrated by awards that denote national or international recognition of a public official's achievement, such as receipt of the Nobel Prize. These awards may also be offered by public or private organizations in the state that are meant to recognize a public official for a distinguished career, such as Oregon's Teacher of the Year award made by the Oregon Department of Education which includes a monetary prize and travel funds. Professional achievements recognized may be identified as a single accomplishment or an accomplishment achieved during a period of time, such as a calendar year or a public official's career upon retirement.

- Contributions to Legal Expense Trust Fund: There are provisions in ORS 244.209 that allow public officials to establish legal expense trust funds that are approved by the Commission. ORS 244.040(2)(h) allows a public official who has established this trust fund to solicit, accept and be the trustee for contributions to the established fund. This is discussed in a separate section of the Guide p.41.



- Certain Gifts: Public officials may accept some gifts without limitation on the quantity or aggregate value of gifts. Acceptance of these gifts does not constitute a prohibited use of office. See allowable gifts, page 33. [ORS 244.040(2)(e) to (g)]



PRIVATE EMPLOYMENT OF PUBLIC OFFICIAL

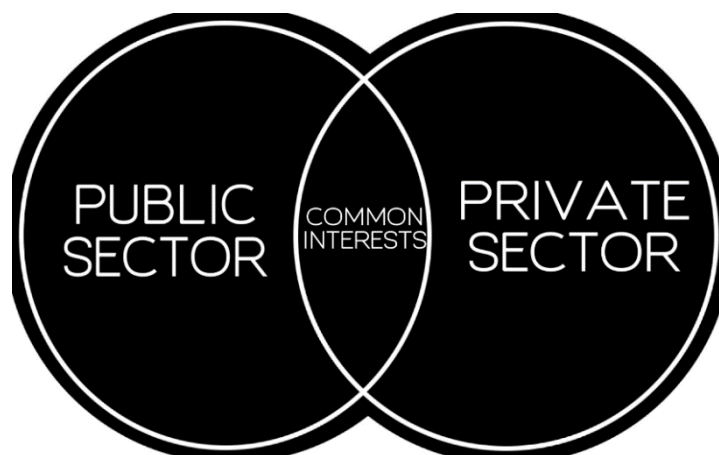
Does Oregon Government Ethics law prohibit a public official from owning a private business or working for a private employer while continuing employment with or holding a position with a public body?

No. As mentioned earlier, many public officials are volunteers, meaning there is little or no compensation for the public position. Other public officials may receive compensation from their public bodies, but still choose to seek additional sources of income. Some work for a private business and others establish a private business of their own. **NOTE: This guide does not address other statutes or agency policies that may limit private employment for public officials.**

In general, public officials may obtain employment with a private employer or engage in private income producing activity of their own, but they must keep a separation between their public positions and their outside employment or private business interests. The Commission has created the following guidelines for public officials to follow in order to avoid violating Oregon Government Ethics law when engaged in private employment or a personally owned business.

GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS

1. Public officials must not use their public position to create the opportunity for additional personal income.
2. Public officials may not use a government agency's supplies, facilities, equipment, employees, records or any other public resources to engage in their private employment or business interests.
3. Public officials are not to engage in private business interests or other employment activities on their government agency's time.
4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.



EMPLOYMENT OF FORMER PUBLIC OFFICIALS

What are the restrictions on employment after I resign, retire or leave my public official position?

- ORS 244.040(1) prohibits public officials from using their official positions or offices to create a new employment opportunity; otherwise, most former public officials may enter the private work force with few restrictions.
- ORS 244.040(5) prohibits a former public official from using or attempting to use confidential information for the personal gain of any person if the confidential information was obtained while holding the position as a public official.
- Oregon Government Ethics law restricts the subsequent employment of certain public officials. The restrictions apply to positions listed below:

ORS 244.045(1) State Agencies:

Director of the Department of Consumer and Business Services
Administrator of the Division of Financial Regulation
Administrator of the Oregon Liquor Control Commission
Director of the Oregon State Lottery
Public Utility Commissioner

1. One year restriction on accepting employment from or gaining financial benefits from a private employer in the activity, occupation or industry that was regulated by the agency for which the public official was the Director, Administrator or Commissioner.
2. Two year restriction on lobbying, appearing as a representative before the agency, or otherwise attempting to influence the agency for which the public official was the Director, Administrator or Commissioner.
3. Two year restriction on disclosing confidential information gained as the Director, Administrator or Commissioner for the agency.

ORS 244.045(2) Department of Justice:

Deputy Attorney Generals
Assistant Attorney Generals

Two year restriction from lobbying or appearing before an agency that they represented while employed by the Department of Justice.

ORS 244.045(3) Office of the Treasurer:

State Treasurer
Deputy State Treasurer

1. One year restriction from accepting employment from or being retained by a private entity with which there was negotiation or contract awarding \$25,000 in a single year by the office of the State Treasurer or Oregon Investment Council.
2. One year restriction from accepting employment from or being retained by a private entity with which there was investment of \$50,000 in one year by the office of the State Treasurer or Oregon Investment Council.
3. One year restriction from being a lobbyist for an investment institution, manager or consultant, or from representing an investment institution, manager, or consultant, before the office of State Treasurer or Oregon Investment Council.

ORS 244.045(4) Public Officials who invested public funds:

1. Two year restriction from being a lobbyist or appearing before the agency, board or commission for which public funds were invested.
2. Two year restriction from influencing or trying to influence the agency, board or commission.
3. Two year restriction from disclosing confidential information gained through employment.

ORS 244.045(5) Department of State Police:

Member of State Police who has been designated by law and was responsible for supervising, directing or administering programs related to Native American tribal gaming or the Oregon State Lottery

1. One year restriction from accepting employment from or gaining financial benefit related to gaming from the Lottery or a Native American Tribe.
2. One year restriction from gaining financial benefit from a private employer who sells gaming equipment or services.
3. One year restriction from trying to influence the Department of State Police or from disclosing confidential information.

Exceptions include subsequent employment with the state police, appointment as an Oregon State Lottery Commissioner, Tribal Gaming Commissioner or lottery game retailer, or personal gaming activities.

ORS 244.045(6) Legislative Assembly
Representative
Senator

A person who has been a member of the Legislative Assembly, may not, within one year after ceasing to be a member of the Legislative Assembly, receive money or other consideration for lobbying as defined in ORS 171.725.

How would Oregon Government Ethics law apply when a former public official is employed by a business that has a contract with the public body previously represented by the former public official?



In addition to the restrictions on specific positions identified above, the restriction in ORS 244.047 applies to all former public officials. After a public official ceases serving a public body or being employed in a position as a public official, that public official may not have a direct beneficial financial interest in a public contract for two years after the date the contract was authorized by the person acting in their capacity as a public official.

Whether a public official authorizes a contract individually as an employee of a public body, or participated in the authorization of a contract in their official capacity as a member of a board, commission, council, bureau, committee or other governing body, the person is restricted from financially benefiting from that public contract for two years after the date of authorization. [ORS 244.047]

“Authorized by” is defined in OAR 199-005-0035(6) as follows:

As used in ORS 244.047, a public contract is “authorized by” a public official if the public official performed a significant role in the selection of a contractor or the execution of the contract. A significant role can include recommending approval or signing of the contract, including serving on a selection committee or team, or having the final authorizing authority for the contract.

GIFTS

Oregon Government Ethics law establishes restrictions on the value of gifts that can be accepted by a public official. If the source of a gift to a public official has a legislative or administrative interest in the decisions or votes of the public official, the public official can only accept gifts from that source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year. [ORS 244.025].



The following framework of conditions applies when public officials, their relatives, or members of their households are offered gifts. To decide if a gift, or “something of value,” can be accepted with or without restrictions, the public official must analyze the offer and the source of the offer. As will be apparent in the following discussion, the burden of any decision on accepting a gift rests solely with the individual public official.

What counts as a “gift”?

When Oregon Government Ethics law uses the word “gift” it has the meaning in ORS 244.020(7)(a):

“Gift” means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

In other words, a “gift” is something of economic value that is offered to:

- A public official or candidate or to relatives or members of the household of a public official or candidate,
- Without cost or at a discount or as a forgiven debt, and,
- The offer is not made or available to members of the general public who are not public officials, candidates, or their relatives or household members on the same terms and conditions.

Example: At a conference exclusively for city and county officials, a public official buys a raffle ticket and wins a big screen television. The television is a gift because the value of the television exceeds the cost of the raffle ticket and the opportunity to enter the raffle and win the television was not available to members of the general public on the same terms and conditions.

Example: Outside of a grocery store, a public official buys a raffle ticket from a local scout troop and wins a big screen television. The television is not a gift because, although the value of the television exceeds the cost of the raffle ticket, the opportunity to enter the raffle and win the television was available to members of the general public on the same terms and conditions.

Once a public official or candidate has determined that an offer is a gift, because it is something of economic value that is not offered to members of the general public who are not public officials or candidates on the same terms and conditions, the public official or candidate must then determine if the value of the gift, combined with any other gifts from the same source during the calendar year, exceeds \$50. If so, the public official must then determine if the source of the gift has a legislative or administrative interest.

Any discussion of gifts must begin with the reminder that if the source of a gift to a public official or candidate **does not** have a legislative or administrative interest in the decisions or votes of the public official or candidate if elected, the public official or candidate can accept unlimited gifts from that source. [ORS 244.040(2)(f)]

What is a “Legislative or Administrative Interest”?



Whether there is a legislative or administrative interest is pivotal to any decision a public official or a candidate, if elected, makes on accepting gifts. It will mean the difference between being allowed to accept gifts without limits, accepting gifts with an annual limit of \$50 on the aggregate value, or accepting gifts which are specified exceptions under ORS 244.020(7).

The definition of a legislative or administrative interest is set forth in ORS 244.020(10):

“‘Legislative or administrative interest’ means an economic interest, distinct from that of the general public, in:

(a) Any matter subject to the decision or vote of the public official acting in the public official’s capacity as a public official; or

(b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.”

When analyzing a set of circumstances and applying “legislative or administrative interest,” there are several factors to consider:

Source: The Commission adopted a rule that identifies the source of a gift as the person or entity that makes the ultimate and final payment of the gift’s expense. OAR 199-005-0030 places two burdens on a public official who accepts gifts. The public official must know the identity of the source and, if applicable, avoid exceeding the limit on the aggregate value of gifts accepted from that source. [OAR 199-005-0030(2)]

Distinct from that of the general public:

With regard to gifts, this phrase refers to a distinct economic interest held by the source of a gift. That economic interest is in the financial gain or loss that could result from any votes cast or decisions made by a public official. If the source of a gift would realize a financial gain or detriment from matters subject to the vote or decision of a public official, that source has an economic interest in that public official. That economic interest is “distinct from that of the general public” if the potential financial gain or detriment is distinct from the financial impact that would be realized by members of the general public from the matters subject to votes or decisions of that same public official.



There are decisions or votes that have an economic impact on single individuals or individuals from specific businesses or groups that are distinct from the economic impact on members of the general public. On the other hand, there are many votes or decisions made by public officials that have the same general economic impact on individuals, businesses, organizations and members of the general public. Some examples of decisions or votes that would likely have an economic impact on members of the general public would be those that change water usage rates for residential users, fees for pet licenses, or fines for parking violations.

To illustrate, private contractors have an economic interest in any public official who has the authority to decide or vote to award them contracts. The economic interest of these contractors is distinct from the economic interest held by members of the general public in those decisions or votes.

To further illustrate, real estate developers have an economic interest in any public official who has the authority to decide or vote to approve their land use applications or building permits. The economic interest of these developers is distinct from the economic interest held by members of the general public in those decisions or votes.

Vote: This has the common meaning of to vote as an elected member of a

governing body of a public body or as an appointed member of a committee, commission or board appointed by a governing body, Oregon Legislative Assembly, or the Office of the Governor.

Decision: A public official makes a decision when the public official exercises the authority given to the public official to commit the public body to a particular course of action. [OAR 199-005-0003(2)].



Whether to accept or reject the offer of a gift must be made individually by each public official. There will be some public officials who may accept unlimited gifts from a source and other public officials within the same public body that would have restrictions on gifts have the same authority, responsibilities or duties. Some may vote and make decisions, others may do one but not the other, and many will not vote or make decisions. This means that when gifts are offered to two or more public officials, one public official may be allowed to accept the gift without limits, and another public official may not be able to accept the gift at all, or may only be able to accept it with limits as to value or with other restrictions.

Example: A cellular service provider offers a discounted cell-phone plan for first responders. The discounted plan is available only to first responders who work for state or local governments. Because the discounted cell-phone plan is not available to members of the general public on the same terms and conditions, it is a gift subject to the restrictions and limitations in ORS 244.025. First responders who are in positions to make official decisions for their agencies that could financially affect the cellular service provider, such as Fire Chiefs or board members, could not accept the discounted cell-phone plan since the discount totals more than \$50 in a calendar year; however, first responders who are not in positions to make official decisions for their agencies that could financially affect the cellular service provider could accept the discounted cell-phone plan.

What obligations are placed on the giver of a gift?

Sources who offer gifts or other financial benefits to public officials must also be aware of the provisions in ORS Chapter 244. While the specific gift of paid expenses may be allowed by ORS 244.020(7)(b)(F), ORS 244.100(1) requires the source of this gift, if over \$50, to notify the public official in writing of the aggregate value of the paid expenses. There is also a notice requirement in ORS 244.100(2) for the source of an honorarium when the value exceeds \$15. Lobbyists, clients or employers of lobbyists, and others who provide gifts or financial benefits to public officials should also familiarize themselves with the provisions in ORS 171.725 through ORS 171.992 and Divisions 5 and 10 of Chapter 199 in the Oregon Administrative Rules. The Commission has published a “Guide to Lobbying in Oregon” that provides a summary of these regulations and rules.

What gifts may a public official accept regardless of value?

While gifts from a source with a legislative or administrative interest in the decisions or

votes of a public official may only be accepted up to the \$50 limit, there are some gifts that are excluded from the definition of a “gift,” when offered under specific conditions or when prerequisites are met. If the offer of a gift is excluded from the definition of a “gift,” the offer may be accepted by a public official, regardless of value.

The value of gifts that are allowed as exclusions does not have to be included when calculating the aggregate value of gifts received from that source in one calendar year. [ORS 244.020(7)(b)] Although some gifts are allowed by these exclusions, it should be remembered that a source may have a notice requirement or there may be reporting requirements for the public official or the source. If you are a public official accepting gifts or a source offering gifts, it is important that you become familiar with the requirements that may apply to you.

ORS 244.020(7)(b) provides a description of the **GIFTS THAT ARE ALLOWED** as exclusions to the definition of a “gift.” **NOTE:** Not all of these exclusions apply to gifts offered to candidates. These exclusions include:

- Campaign contributions as defined in ORS 260.005. [ORS 244.020(7)(b)(A)]
- Contributions to a legal expense trust fund established under ORS 244.209. [ORS 244.020(7)(b)(G)]
- Gifts from relatives or members of the household of public officials or candidates. [ORS 244.020(7)(b)(B)]
- Anything of economic value received by a public official or candidate, their relatives or members of their household when:

The receiving is part of the usual and customary practice of the person’s business, employment, or volunteer position with any non-profit or for-profit entity; [ORS 244.020(7)(b)(O)(i)] **and**

The receiving bears no relationship to the person’s holding the official position or public office. [ORS 244.020(7)(b)(O)(ii)]

- Unsolicited gifts with a resale value of less than \$25 and in the form of items similar to a token, plaque, trophy and desk or wall mementos. [ORS 244.020(7)(b)(C); OAR199-005-0010]
- Publications, subscriptions or other informational material related to the public official’s duties. [ORS 244.020(7)(b)(D)]
- Waivers or discounts for registration fees or materials related to continuing education or to satisfy a professional licensing requirement for a public official or candidate. [ORS 244.020(7)(b)(J)]

- Entertainment for a public official or candidate and their relatives or members of their households when the entertainment is incidental to the main purpose of the event. [ORS 244.020(7)(b)(M); OAR 199-005-0001; OAR 199-005-0025]
- Entertainment for a public official, a relative of the public official or a member of the public official's household when the public official is acting in an official capacity and representing a government agency for a ceremonial purpose. [ORS 244.020(7)(b)(N); OAR 199-005-0025(2)]
- Cost of admission or food and beverage consumed by the public official, a relative of the public official, a member of the public official's household or staff when they are accompanying the public official, who is representing a government agency, at a reception, meal or meeting held by an organization. [ORS 244.020(7)(b)(E); OAR 199-005-0015; OAR 199-005-0001]
- Food or beverage consumed by a public official or candidate at a reception where the food and beverage is an incidental part of the reception and there was no admission charged. [ORS 244.020(7)(b)(L); OAR 199-005-0001(3)]
- When public officials travel together inside the state to an event bearing a relationship to the office held and the public official appears in an official capacity, a public official may accept the travel related expenses paid by the accompanying public official. [ORS 244.020(7)(b)(K)]
- Payment of reasonable expenses if a public official is scheduled to speak, make a presentation, participate on a panel or represent a government agency at a convention, conference, fact-finding trip or other meeting. The paid expenses for this exception can only be accepted from another government agency, Native American Tribe, an organization to which a public body pays membership dues, or not-for-profit organizations that are tax exempt under 501(c)(3). [ORS 244.020(7)(b)(F); OAR 199-005-0020; OAR 199-005-0001]
- Payment of reasonable food, lodging or travel expenses for a public official, an accompanying relative, member of household, or staff, may be accepted when the public official is representing their government agency at one of the following: [ORS 244.020(7)(b)(H); OAR 199-005-0020; OAR 199-005-0001]
 - Officially sanctioned trade promotion or fact-finding mission; [ORS 244.020(7)(b)(H)(i)] **or**
 - Officially designated negotiation or economic development activity when receipt has been approved in advance. [ORS 244.020(7)(b)(H)(ii)]

[NOTE: Who may officially sanction and officially designate these events, and how to do so, is addressed in OAR 199-005-0020(3)(b).]

- Payment to a public school employee of reasonable expenses for accompanying students on an educational trip. [ORS 244.020(7)(b)(P)]
- Food and beverage when acting in an official capacity in the following circumstances: [ORS 244.020(7)(b)(I)]
 - In association with a financial transaction or business agreement between a government agency and another public body or a private entity, including such actions as a review, approval or execution of documents or closing a borrowing or investment transaction; [ORS 244.020(7)(b)(I)(i)]
 - When the office of the Treasurer is engaged in business related to proposed investment or borrowing; [ORS 244.020(7)(b)(I)(ii)]
 - When the office of the Treasurer is meeting with a governance, advisory or policy making body of an entity in which the Treasurer's office has invested money. [ORS 244.020(7)(b)(I)(iii)]

GIFTS AS AN EXCEPTION TO THE USE OF OFFICE PROHIBITION IN ORS 244.040

As covered in more detail in the discussion beginning on page 17, public officials are prohibited from using or attempting to use the position they hold to obtain a prohibited financial benefit. [ORS 244.040(1)] As covered in more detail in the discussion beginning on page 26, Oregon Government Ethics law does not prohibit public officials from accepting gifts, but it does place on each individual public official the personal responsibility to understand there are circumstances when the aggregate value of gifts may be restricted. [ORS 244.025] These provisions of Oregon Government Ethics law often converge and require analysis by public officials to determine whether the opportunity to obtain financial benefits represents the use of an official position prohibited by ORS 244.040(1) or a gift addressed with other provisions in ORS Chapter 244 [ORS 244.020(7), ORS 244.025 or ORS 244.040(2)(e),(f) and (g)].



ORS 244.040 was amended in 2007 to make the acceptance of gifts that comply with ORS 244.020(7) and ORS 244.025 exceptions to the prohibition on public officials' use or attempted use of an official position to gain financial benefits. [ORS 244.040(2)(e), (f) and (g)] If a public official, relative, or household member accepts a permissible gift or a financial benefit that qualifies as an exception to the definition of a gift, ORS 244.040(1) does **not** prohibit its acceptance. If a public official, relative, or household member accepts a gift that exceeds the restrictions or limitations set forth in ORS 244.025, then that gift would not qualify under the exceptions set forth in ORS 244.040(e), (f) and (g). Acceptance of that gift could constitute a violation of both ORS 244.025 and ORS 244.040(1).

When the Commission applies Oregon Government Ethics law to “something of economic value” offered to a public official that meets the definition of “gift,” it will first be analyzed to determine whether it is a violation of ORS 244.025. If the Commission determines that acceptance of the gift constitutes a violation of ORS 244.025 (unlawful acceptance of a gift), it will then determine if it also constitutes a violation of ORS 244.040(1) (prohibited use of office).

The following are examples to illustrate the Commission’s approach:

- The mayor of a town on the Oregon coast was a college roommate with Bob Smith, who now manages a company that owns many golf courses in Oregon and other states. One of the company’s golf courses is in the mayor’s town. The mayor and

Bob have remained friends ever since college. Recently, Bob invited the mayor to join him at the Masters' Tournament in Augusta, offering to fly him there on Bob's private jet, stay in Bob's condo, and host him at a private booth at the Tournament. The value of this trip exceeds \$50, and Bob has a legislative or administrative interest in the mayor's decisions as a public official, as one of Bob's golf courses is in the mayor's town. Since the value of the trip exceeds \$50, is not extended to others who are not public officials on the same terms and conditions, and is from a source with a legislative or administrative interest, it is a gift that the mayor cannot accept without violating ORS 244.025(1). It also does not qualify as an exception to ORS 244.040(1). [ORS 244.040(2)(e)]. Bob has been inviting his old college friend on this trip for at least 10 years, long before the friend was elected mayor recently. This and other evidence indicates that the mayor received this offer because he and Bob are friends, not because he is the town's mayor; therefore, the offer of this trip does not represent a financial gain that would not be available to the mayor but for his holding his public office. Thus, if the mayor accepted the gift of this trip, the mayor would violate ORS 244.025(1) (acceptance of an unlawful gift), but would not violate ORS 244.040(1) (prohibited use of office).

- A public works director for B City holds weekly breakfast meetings at a local diner. The public works director invites five main contractors in B City, all of whom do business with the city, to attend these meetings. The contractors take turns picking up the tab for the public works director's breakfast. Because the public works director has the authority to recommend the contractors for projects with the city, the contractors have economic interests distinct from that of the general public in the public works directors' decisions or recommendations. Over the course of a calendar year, each contractor pays for at least ten meals for the public works director, at a total aggregate cost exceeding \$50. These meals constitute unlawful gifts to the public works director, as their value exceeds \$50, they are not extended to others who are not public officials on the same terms and conditions, and they are from sources with distinct economic interests in the public works director's decisions or recommendations. The contractors would not pay for these meals if he were not the public works director. Thus, in addition to violating ORS 244.025(1), by accepting these meals the public works director also violates ORS 244.040(1).

The responsibility for judgments and decisions made in order to comply with the various provisions in Oregon Government Ethics law rests with the individual public official who faces the circumstances that require a judgment or decision. That is true of questions regarding gifts, use of an official position, announcing the nature of conflicts of interest and the many situations addressed in ORS Chapter 244.

NEPOTISM



Does Oregon Government Ethics law prevent two or more relatives from being employees of the same public body?

No. Public officials who are relatives can be employed by the same public body employer at the same time, or serve at the same time on the same governing body of a public body.

ORS Chapter 244 does, however, does address the issue of “nepotism.” The definitions of “member of household” and “relative” found in ORS Chapters 244.020(11) and 244.020(16) apply here: See page 7.

What are the provisions that address nepotism?

Public officials are restricted from participating in personnel actions taken by the public agency that would impact the *paid employment* of a relative or member of the public official’s household. If a public official has a relative or household member who has applied to be or serves as an *unpaid volunteer*, the public official may participate in any personnel action that involves the relative or member of the household.

Personnel actions addressed by this statute include:

- Appointing, employing or promoting a relative or member of the public official’s household; or
- Discharging, firing or demoting a relative or member of the public official’s household.

ORS 244.177(1)(a) provides that a public official may not appoint, employ or promote (or discharge, fire or demote) a relative or member of their household from a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of ORS Chapter 244. Even if the public official discloses a conflict of interest, a public official who takes such a personnel action for a relative or member of their household could still be found in violation of the use of office provisions of ORS 244.040(1).

Separately, ORS 244.177(1)(b) directs that a public official may not participate in any interview, discussion or debate regarding such personnel actions involving a relative or member of the public official’s household.

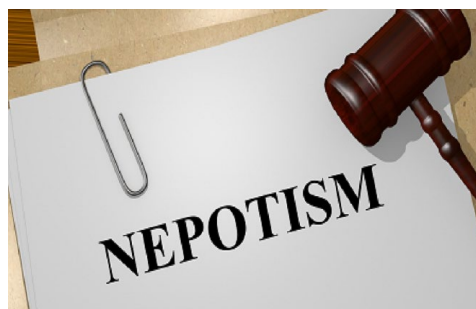
A public official who is assigned duties that include performing “ministerial acts” related

to any stage of a relative's employment is not prohibited from performing such acts. "Ministerial acts" would include mailing or filing forms or correspondence, taking and relaying messages, scheduling appointments or preparing documents and minutes for public meetings. A public official may serve as a reference or provide a recommendation for a relative who has applied for a position of employment, promotion, or is subject to any personnel action.

Exception: Public officials may not, however, participate in appointing a relative or member of the household to an unpaid position on the governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control. [ORS 244.177(3)(a) and (b)]

Can public officials supervise their relatives or members of their households?

Nepotism also applies to supervision of relatives or members of the public official's household. ORS 244.179(1) prohibits public officials from directly supervising relatives or members of their household in paid positions. The public official may supervise an unpaid volunteer serving the public body, unless the volunteer position is as a member of a governing body of the public body. [ORS 244.179(3)]



Policy Exception: ORS 244.179(4) permits a public body to adopt policies that specify when a public official, acting in an official capacity for the public body, may directly supervise a relative or member of the public official's household in a paid position. OAR 199-005-0080 provides guidance to public bodies in developing such policies. Absent such a policy, a public official may not directly supervise a remunerated person who is a relative or member of the public official's household. [ORS 244.179(1)]

Direct supervision of a paid relative or household member includes official actions that would financially impact their relative or household member, such as:

- Conducting performance reviews
- Approving leave or vacation time
- Recommending or approving pay changes
- Assigning shifts
- Approving overtime
- Authorizing or approving reimbursements or travel expenses
- Authorizing worksite assignments or teleworking

Exception: Public officials who are elected members of the Oregon Legislative Assembly are not prohibited from participating in employment actions, including supervision of their relatives or household members on their personal staff [ORS 244.177(2)].

ANNUAL VERIFIED STATEMENT OF ECONOMIC INTEREST



There are approximately 5,500 Oregon public officials who must file an **Annual Verified Statement of Economic Interest (SEI)** with the Oregon Government Ethics Commission **by April 15** of each calendar year. The SEIs are now filed electronically through the Commission's Electronic Filing System (EFS).

ORS 244.050 identifies the public officials who are required to file SEIs. Please refer to that statute to see if your specific office or position requires you to file an SEI. In general, public officials who hold the following positions are required to file:

- State public officials who hold elected or appointed executive, legislative or judicial positions. This includes those who have been appointed to positions on certain boards or commissions.
- In counties, all elected officials, such as commissioners, assessors, surveyors, treasurers and sheriffs must file. Planning commission members and the county's principal administrator must also file.
- In cities, all elected officials, the city manager or principal administrator, municipal judges and planning commission members must file.
- Administrative and financial officers in school districts, education service districts and community college districts must file.
- Some members of the board of directors for certain special districts must file.
- Candidates for some elected public offices are also required to file.

The Commission staff has identified by jurisdiction the public officials whose position requires them to file the SEI. Each jurisdiction (city, county, executive department, board or commission, etc.) has a person (jurisdictional contact) who acts as the Commission's point of contact for that jurisdiction. [OAR 199-020-0005(1)]

The **jurisdictional contact (JC)** for each jurisdiction has an important role as a liaison between the Commission and the SEI filers in their jurisdiction. It is through the JC that the Commission obtains the current name, address and email address of each public official who is required to file. When there is a change in who holds a position through resignation, appointment or election, the JC periodically updates their jurisdictional records and beginning in January of each year the JC is asked to update and verify the required filers in the EFS system. Any necessary changes or updates in EFS are due by February 15. [OAR 199-020-0005(2)]

As with other provisions in Oregon Government Ethics law, it is each public official's personal responsibility to ensure they comply with the requirement to complete and submit the SEI by April 15. Those public officials who must file an SEI are well served if the JC for their jurisdiction ensures that the Commission has the correct name and email address of the public official. The JC should ensure that each SEI filer has been advised of the reporting requirements. Each filer should also receive information as to the procedures the jurisdiction follows to assist the filer in meeting the SEI filing requirement.

Again, the requirement to file the SEI is the personal responsibility of each public official. Each public official should comply and file timely, as the civil penalties for late filing are \$10 for each of the first 14 days after the filing deadline and \$50 for each day thereafter until the aggregate penalty reaches the maximum of \$5,000. [ORS 244.350(4)(c)]

SEI Filing

NOTE: Only public officials who hold a position that is required to file, and who hold that position on April 15 of the year the SEI is due, must file an SEI.

SEIs are filed online through the Commission's Electronic Filing System (EFS). Notifications and instructions for e-filing will be sent to SEI filers electronically via email addresses initially supplied in EFS by the JC and updated when necessary.

The following is a brief description of the information requested in the SEI electronic filing. The information needed to complete the filing pertains to the previous calendar year.

- Name, address and a brief description of each business in which a position as officer or director was held by the filer or household member. [ORS 244.060(1)]

Name, address and a brief description of each business through which the filer or household member did business. [ORS 244.060(2)]

Name, address, and brief **description** of the **sources** (*not amounts*) of income for the filer and household members that represent 10 percent or more of the annual household income. [ORS 244.060(3)]

Example: An SEI filer resides only with a spouse and their annual household income from the prior year is derived from the spouse's job at Walmart, the spouse's retirement, and the public official's salary as an employee at a public university. The respective "sources" would be: "Walmart", "Social Security" and "XX University"; respective "descriptions" would be "spouse's wages", "spouse's retirement" and "filer's salary".

- Ownership interests held by the filer or household members in real property, **except for their principal residence**, located within the geographic boundaries of the jurisdiction in which the filer holds the position or seeks to hold. [ORS 244.060(4)(a) and (b)] **NOTE: SEI filers who serve statewide and members of the Legislative**

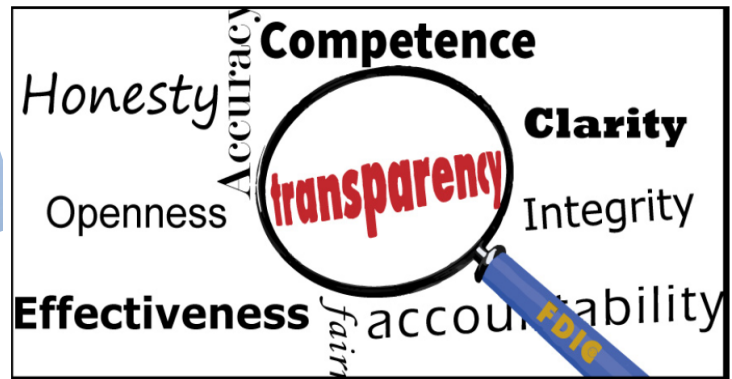
Assembly must report real property held within the entire state of Oregon. This applies to candidates for statewide office and the Legislative Assembly.

- Honoraria or other items allowed by ORS 244.042 that exceed \$15 in value given to the filer or household members. Include a description of the honoraria or item and the date and time of the event when the item was received. [ORS 244.060(7)] Remember that honorarium cannot exceed \$50. [ORS 244.042(3)(a)]
- Name of each lobbyist associated with any business with which the filer or household member is associated, unless the association is through stock held in publicly traded corporations. [ORS 244.090]
- If the public official received over \$50 from an entity when participating in a convention, fact-finding mission, trip, or other meeting as allowed by ORS 244.020(7)(b)(F), list the name and address of the entity that paid the expenses. Include the event date, aggregate expenses paid and the purpose for participation. [ORS 244.060(5) and ORS 244.100(1)] [Not required for candidates]
- If the public official received over \$50 from an entity when participating in a trade promotion, fact-finding mission, negotiations or economic development activities as allowed by ORS 244.020(7)(b)(H), list the name and address of the person that paid the expenses. Include the event date, aggregate expenses paid and nature of the event. [ORS 244.060(6)] [Not required for candidates]
 - **EXCEPTION:** Expenses paid by the public body to their own public officials need not be reported by the public official under ORS 244.060 [OAR 199-005-0035(4)].

The following is required if the information requested relates to an individual or business that has been doing, is doing or could reasonably be expected to do business with the filer's governmental jurisdiction, has a legislative or administrative interest in the filer's governmental jurisdiction, or over which the filer exercises any authority:

- Name, address and description of each source of income (taxable or not) that exceeds \$1,000 for the filer or a household member. [ORS 244.060(8)]
- Name of each person the filer or a household member owes or has owed \$1,000 or more in the previous calendar year. Include the date of the loan and the interest rate. Debts on retail contracts or with regulated financial institutions are excluded. [ORS 244.070(1)]
- Name, address and description of nature of each business in which filer or household member has beneficial interest over \$1,000 or investment held in stocks or securities over \$1,000. Exemptions include mutual funds, blind trusts, deposits in financial institutions, credit union shares and the cash value of life insurance policies. [ORS 244.070(2)]

- Name of each person from whom the filer received a fee of over \$1,000 for services, unless disclosure is prohibited by law or a professional code of ethics. [ORS 244.070(3)]



LEGAL EXPENSE TRUST FUND

The Oregon Government Ethics Commission can authorize a public official to establish a legal expense trust fund to be used to defray expenses incurred for a legal defense in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. [ORS 244.205]

The provisions regarding the establishment of this fund are detailed in ORS 244.205 through ORS 244.221. If a public official is considering the need to establish a legal expense trust fund, these provisions should be reviewed. The Commission staff is available to provide guidance on the procedures. The following are some of the significant elements of a legal expense trust fund:

- A public official may only have one trust fund at any one time. [ORS 244.205(4)]
- The application to establish the fund must be submitted to the Commission for review and authorization. ORS 244.209 details what information and documents must accompany the application.
- The public official may act as the public official's fund trustee. [ORS 244.211(2)]
- Once authorized and established, any person may contribute to the fund. [ORS 244.213(1)]
- Contributions from a principal campaign committee are not allowed. [ORS 244.213(3)]
- Funds must be maintained in a single exclusive account [ORS 244.215].
- Quarterly reports of contributions and expenditures from the fund are required. [ORS 244.217]
- The fund may be terminated within six months after the legal proceeding for which the fund was established has been concluded. [ORS 244.219]
- When terminated, remaining funds must be returned to contributors on a pro rata basis. [ORS 244.221(1)]
- If the legal proceeding for which the fund was initiated resulted in any financial award or money judgment in favor of the public official, such moneys shall be distributed in the following order: outstanding legal expenses, to trust fund contributors on a pro rata basis, and to the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the IRS Code. [ORS 244.221(2)]

Once established, can the public official solicit funds in order to pay for the cost of a legal defense?

Yes. An exception to the prohibited use of office provision explicitly allows a public official to solicit and accept funds for the official's legal expense trust fund. [ORS 244.040(2)(h)] Also, contributions to a legal expense trust fund are excluded from the definition of a "gift." [ORS 244.020(7)(b)(G)]

OREGON GOVERNMENT ETHICS COMMISSION

The Governor appoints all nine members of the Commission and each appointee is confirmed by the Senate. The commissioners are recommended as follows: [ORS 244.250]

- 2 Recommended by the Senate Democratic leadership
- 2 Recommended by the Senate Republican leadership
- 2 Recommended by the House Democratic leadership
- 2 Recommended by the House Republican leadership
- 1 Recommended by the Governor

The Commission members select a chairperson and vice chairperson annually. No more than three commissioners with the same political party affiliation may be appointed to the Commission to serve at the same time. The commissioners are limited to one four-year term, but if an appointee fills an unfinished term they can be reappointed to a subsequent four year term.

The Commission is administered by an executive director, who is selected by the Commission. Legal counsel is provided by the Oregon Department of Justice. Commission staff provide administration, training, guidance, issue written opinions and advice, and conduct investigations when complaints are filed with the Commission.

Training:

The Commission has designated training as one of its highest priorities. It has two staff positions to provide free training to public officials and lobbyists on the laws and regulations under its jurisdiction. Training is provided through presentations at training events, web-based training, informational links on the website, topical handouts and guidance offered when inquiries are received. Contact the Commission to obtain free training through our website at <https://www.oregon.gov/ogec/training/Pages/default.aspx>



Advice:



Questions regarding the Commission’s laws, regulations and procedures are a welcome daily occurrence. Timely and accurate answers are a primary objective of the staff. All members of the Commission staff are cross-trained in the laws and regulations under the Commission’s jurisdictions. Guidance and information is

provided either informally, over the telephone at 503-378-5105, by e-mail at ogec.mail@oregon.gov, or in the following written formal advice and opinions:

- **Staff Advice:** ORS 244.284 provides for informal staff advice, which may be offered in several forms, such as in person, by telephone, e-mail or letter. In a letter of advice, the proposed, hypothetical or actual facts are restated as presented in

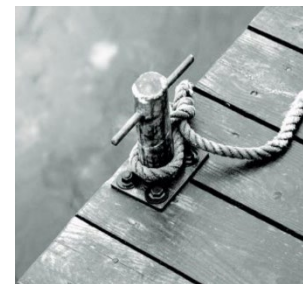
the request, along with the relevant statutes and administrative rules. The advice will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request.

- **Staff Advisory Opinion:** ORS 244.282 authorizes the executive director to issue a staff advisory opinion upon receipt of a written request. The Commission must respond to any request for a staff advisory opinion within 30 days, unless the executive director extends the deadline by an additional 30 days. The staff advisory opinion is issued in a letter that restates the proposed, hypothetical or actual facts presented in the written request and identifies the relevant statutes and administrative rules. The opinion will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request.
- **Commission Advisory Opinion:** ORS 244.280 authorizes the Commission to prepare and adopt by vote a Commission Advisory Opinion. Commission advisory opinions are reviewed by legal counsel before being adopted by the Commissioners. The opinion will identify the relevant statutes and administrative rules and will discuss how the law applies to the questions asked or raised by the fact circumstances provided in the request. The Commission must respond to any request for a Commission Advisory Opinion within 60 days, unless the Commission extends the deadline by an additional 60 days.

Public officials who request advice or formal opinions must describe the specific facts and circumstances that provide the basis for questions about how the Oregon Government Ethics law may apply. The facts and circumstances may be hypothetical or actual, but must be prospective, describing a proposed transaction or action, not one that has already occurred. If actual circumstances indicate that a violation may have already occurred, the staff cannot provide advice or an opinion because to do so could compromise the Commission's objectivity if a complaint were to be filed. As described below, whether a public official relied on Commission advice or opinions is relevant to sanctions, in the event a complaint is filed against the public official.

If a person requests, receives or relies on any of the advice or opinions authorized by ORS 244.280 through ORS 244.284, does that person have what is referred to as “safe harbor”?

There is no “safe harbor,” if the term is understood to mean that any person who relies on any advice or opinions offered by the Commission or the staff is protected from being a respondent to a complaint or from being found in violation of laws within the jurisdiction of the Commission.



There is, however, specific and conditional protection for any person who has requested and relied in good faith upon advice or an opinion from the Commission or its staff. The conditions and protection is as follows:

- The fact circumstances described in the request must not misrepresent, misstate or omit material facts.
- Reliance on the advice or opinion means that the action or transactions of the person were those described or suggested in the advice or opinion.
- The protection applies only during the penalty phase, after the Commission has determined that a violation has occurred. If there was reliance on staff advice or a Staff Advisory Opinion, the Commission may consider the reliance during the penalty phase. If reliance was on a Commission Advisory Opinion, the Commission may not impose a penalty.

The specific protections for the different forms of advice are as follows:

Staff Advice: If the Commission makes a finding that a public official violated provisions of law within its jurisdiction, and that public official acted in accordance with staff advice offered under the authority of ORS 244.284, the Commission may consider that information when sanctioning the violation. [ORS 244.284(2)] The Commission is not prevented from finding a violation, but the sanction imposed could be affected.

Staff Advisory Opinion: If the Commission determines that a public official violated provisions of law within its jurisdiction, and the public official acted in accordance with a staff advisory opinion under the authority of ORS 244.282, in sanctioning the violation, the Commission may consider whether the public official committed the violation when acting in reliance on the staff advisory opinion. [ORS 244.282(3)] The Commission is not prevented from finding a violation in these circumstances, but any sanction is limited to issuing a written letter of reprimand, explanation, or education, unless it finds that the person omitted or misstated material facts in the request for a staff advisory opinion.

Commission Advisory Opinion: The Commission may not impose a penalty on a person for any good faith action taken by the person while relying on a Commission Advisory Opinion, unless it is determined that the person who requested the opinion omitted or misstated material facts in the opinion request. [ORS 244.280(3)] For the Commission Advisory Opinion to be a factor in preventing the imposition of a penalty, it is important to understand that the circumstances described in the request must have been an accurate description of what occurred when the respondent committed the violation, and the actions of the respondent must have been those recommended or described in the Commission Advisory Opinion. The Commission is not prevented from finding a violation in these circumstances, but could be prevented from imposing a sanction.

Any person who has not requested advice or an opinion must be cautious when trying to apply advice or opinions offered to others. The advice and opinions given are based on and tailored to the specific fact circumstances presented in a request. Fact circumstances

vary from one situation to another and they vary from one public official to another. If a person reviews an opinion or advice issued to another for circumstances the person believes similar to those now met and relies on that advice, the person must ensure the similarity is sufficient for the application of law to be the same.

It is important to remember that the provisions of law apply to the individual actions of the person or public official. There are events or occasions when more than one public official may be present and participating in their official capacities. Depending on the circumstances and conditions for an event or transaction, the law may have a different application for one public official than for other public officials.

Published advice that the Commission has issued may be found at <https://www.oregon.gov/oqec/public-records/Pages/Advice-and-Opinions.aspx>



Compliance:

The Commission has a program manager who oversees the management and administration of the various reports that are filed with the Commission. There are approximately 1,000 lobbyists who must file or renew their lobbying registrations every two years. These lobbyists, and their clients or employers, must also file lobbying activity expense reports every quarter. Additionally, there are approximately 5,500 public officials who must file the Annual Verified Statement of Economic Interest each April 15. The program manager and Commission staff are available by telephone or e-mail to provide assistance and answer questions about registration and filing requirements and procedures.

Complaint Review Procedures:

Investigations are initiated through a complaint procedure. [ORS 244.260 and ORS 171.778] Any person may file a signed, written complaint alleging that there may have been a violation of Oregon Government Ethics law, Lobbying Regulation or the executive session provisions of Oregon Public Meetings law. The complaint must identify the public official believed to have violated the law, and must state the person's reason for believing that a violation may have occurred and include any evidence that supports that belief. The complaint must identify and be signed by the person filing it. Anonymous complaints are not accepted. The executive director reviews the complaint for jurisdiction and sufficiency. If additional information is needed, the complainant is asked to provide that information.

Complaints are filed online via the “Complaint Form” found on the Commission’s website homepage at <https://www.oregon.gov/ogec/public-records/Pages/Complaints.aspx>. All complaints must be signed, either through an e-signature if submitted through the online complaint system, or an inked signature if filed by paper. NOTE: The name of the complainant is furnished to the subject of a complaint.

If there is reason to believe that a violation of laws within the jurisdiction of the Commission may have been committed, a case will be initiated upon receipt of a complaint. The Commission may also initiate a case on its own complaint by motion and vote. Before approving such a motion, the public official against whom the action may be taken is notified and given an opportunity to appear before the Commission at the meeting when the matter is discussed or acted upon.

When a case is initiated, the public official against whom the allegations are made is referred to as the respondent. The respondent is notified of the complaint and provided with the information received in the complaint and the identity of the complainant. Whether based on a complaint or a motion by the Commission, the initial stage of the case is called the preliminary review phase. The time allowed for this phase is limited to 30 days (135 days for lobby cases) and ends when the executive director finalizes the preliminary review report.

A court may enjoin the Commission from continuing its inquiry during the preliminary review phase. Also, if a complaint is made against a candidate within 61 days of an election, the candidate may make a written request for a delay. [ORS 244.260(4)(a)]

During the preliminary review phase, the Commissioners and staff can make no public comment on the matter other than to acknowledge receipt of the complaint. It is maintained as a confidential matter until the Commission meets in executive session to consider whether to dismiss the complaint or find cause to conduct an investigation. Following the Commission’s consideration of the preliminary review report in executive session, the case file is subject to public disclosure.

If the Commission votes to dismiss the complaint, the matter is concluded and both the respondent and complainant are notified. If cause is found to investigate, then an investigatory phase begins. The investigatory phase is limited to 180 days. The investigatory phase may be suspended during a pending criminal investigation if the Commission determines that its own investigation cannot be adequately completed until the criminal investigation is complete, or if a court enjoins the Commission from investigation.

During the investigatory phase, Commission investigators will solicit information and documents from the complainant, respondent, and other witnesses and sources that are identified. Before the end of the 180 day investigatory period, an investigation report will be prepared. The investigation report is reviewed by the Commission’s legal counsel before being finalized by the executive director. The investigation report is presented to the Commission in the public session portion of its meeting. The Commission will then

consider the results of the investigation and generally will vote to either dismiss the complaint or make a preliminary finding that a violation of law was committed by the respondent. The preliminary finding of a violation is based on what the Commission considers to be a preponderance of evidence sufficient to support such a finding.

If a preliminary finding of violation is made, the respondent will be offered the opportunity to request a contested case hearing. At any time, either during the investigative phase or after a preliminary finding of violation is made, the respondent is encouraged to negotiate a settlement with the executive director, who represents the Commission in such negotiations. Most cases before the Commission are resolved through a negotiated settlement, with the terms of the agreement set forth in a Stipulated Final Order.

The Commission has a variety of sanctions available after making a finding that a violation occurred. Sanctions range from letters of education, reprimand, or explanation, to civil penalties and forfeitures. The maximum civil penalty that can be imposed for each violation of Oregon Government Ethics law is \$5,000, except for violations of ORS 244.045 (regulation of subsequent employment) where the maximum penalty is \$25,000 and for “willful” violations of ORS 244.040 (the “prohibited use of position or office” provision) where the maximum penalty is \$10,000. An additional civil penalty may be assessed equal to twice the financial gain that a respondent realized from a violation. Each violation of the executive session provisions in ORS 192.660 is subject to a maximum fine of \$1,000. Any monetary sanctions paid are deposited into the State of Oregon General Fund.

INDEX

A

Actual conflict of interest	11, 13, 14
Administrative interest	26, 27, 28, 29, 34, 39
Advisory Opinion, Commission	43, 44
Advisory Opinion, Staff.....	43, 44
Annual Verified Statement of Economic Interest (SEI).....	10, 37, 45
Attorney General	2, 6, 12, 20, 23
Awards for professional achievement.....	21

B

Beverage.....	31, 32
Boards, members of	5, 7, 13, 37
Business.....	8, 9, 14, 15, 17, 18, 22, 25, 28, 30, 38, 39
Business agreement.....	32
Business, associated.....	4, 8, 9, 10, 11, 12, 13, 14, 17, 22, 40

C

Candidates	7, 8, 19, 20, 26, 27, 30, 31, 37, 39, 46
Campaign contributions.....	3, 30
Ceremonial.....	31
Class exception	14
Client, Representation of.....	18
Commission Advisory Opinion	43, 44
Commissions, members of.....	7, 13, 37, 42
Compensation package.....	8, 19
Complaint process.....	42, 43, 45, 46, 47
Confidential information.....	18, 22,23,24,46
Conflict of interest.....	4, 7, 8, 11, 12, 13, 14, 15, 16, 18, 35
Conflict of interest, exceptions	13, 14, 15
Contested case hearing	47
Continuing education.....	30

D

Decision	4, 11, 12, 13, 15, 26, 27, 28, 29, 34
Department of Consumer and Business Services	23
Department of Justice.....	23
Department of State Police	24
Division of Financial Regulation	23

E

Economic development.....	31, 39
Economic interest.....	3, 4, 10, 27, 28, 34, 37, 45, 48
Education, continuing	30
Educational trip	32

Employment, subsequent.....	23, 24, 47
Employment, of a relative.....	4, 7, 8, 9, 10, 11, 13, 17, 35, 36
Employers of lobbyists.....	2, 29
Entertainment.....	2, 31
Entertainment, ceremonial purposes.....	31
Entertainment, incidental.....	31
Exceptions, conflict of interest.....	13, 14, 15
Executive session.....	2, 45, 46, 47

F

Fact-finding mission.....	31, 39
Fee, appearance for.....	18
Financial detriment, personal.....	17, 19
Financial gain, use of office.....	4, 17, 18, 28, 34, 47
Financial transaction.....	32
First Partner.....	6, 20
Food and beverage.....	31, 32
Forfeiture.....	47

G

Gift.....	3, 4, 7, 21, 26, 27, 28, 29, 30, 33, 34, 41
Gifts allowed as exclusions.....	29, 30, 31, 32, 33, 34
Governor.....	6, 20, 29, 42

H

Honoraria or honorarium.....	20, 21, 29, 39
Household.....	3, 4, 7, 8, 9, 10, 17, 19, 22, 26, 30, 31, 33, 35, 36, 38, 39

I

Incidental.....	31
Investigation, Investigative Phase.....	41, 42, 45, 46, 47

J

Judges.....	12, 37
Jurisdictional Contact.....	37
Jurisdiction.....	2, 3, 35, 36, 37, 38, 39, 42, 43, 44, 45, 46

L

Legal Expense Trust Fund.....	21, 30, 41
Legislative or administrative interest.....	26, 27, 28, 29, 34, 39
Legislative Assembly.....	12, 25, 29, 36, 38, 39
Letter of advice.....	42
Letter of reprimand, education, or explanation.....	44, 47
Lobbyist.....	2, 24, 29, 39, 42, 45
Lodging.....	2, 15, 31

<u>M</u>	
Member of household.....	31, 35
Ministerial acts	35, 36

<u>N</u>	
Native American tribal gaming	24
Native American Tribe.....	24, 31
Negotiation	24, 31, 39, 47
Nepotism	7, 35, 36
Non-Disclosure Agreement	19
Non-profit	15, 30

<u>O</u>	
Official capacity	25, 31, 32, 36
Official duties.....	20
Officially designated	31
Officially sanctioned	31
Oregon Investment Council.....	24
Oregon Liquor Control Commission	23
Oregon State Lottery	24

<u>P</u>	
Penalty	38, 44, 47
Plaque	30
Potential conflict of interest	4, 11, 13, 16
Preliminary Review Phase	46
Private employment.....	22
Professional achievement, awards for.....	21
Public office.....	4, 19, 30, 34, 37
Public Official who invested public funds.....	24
Public Utility Commission	23
Publications	2, 30

<u>R</u>	
Reception	31
Reimbursement of expenses.....	19, 20, 36
Relative	3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 19, 22, 26, 30, 31, 33, 35, 36
Representative	18, 23, 25
Representing government agency	24, 31

<u>S</u>	
Safe Harbor	43
SEI, Annual Verified Statement of Economic Interest	10, 37, 38
Senator.....	25
Source.....	2, 10, 22, 26, 27, 28, 29, 30, 34, 38, 39, 46

Speak, Speaking	20, 31
Staff advice	42, 44
Staff Advisory Opinion	43, 44
State Police, Department of	24
Stipulated Final Order	47
Subscriptions.....	30
Subsequent employment.....	23, 24, 47

I

Trade promotion	31, 39
Training	5, 18, 42
Travel expenses, paid	31, 36
Treasurer, State	20, 23, 24, 32, 37
Treasurer, Chief Deputy	23
Trophy, unsolicited	30

U

Use of office or position.....	7, 13, 17, 21, 33, 34, 35, 41, 47
--------------------------------	-----------------------------------

V

Volunteers	3, 6, 7, 12, 17, 22, 30, 35, 36
Vote.....	2, 13, 14, 18, 26, 27, 28, 29, 30, 43, 46, 47

W

Website, Oregon Government Ethics Commission	2, 5, 13, 42, 46
--	------------------