

OREGON STATE AND LOCAL PUBLIC BOND CLAIM STEPS

(for publicly-owned projects)

<p>Before you bid or sign the contract.</p> 	<p>Obtain a copy of the payment bond. No construction lien rights apply to publicly-owned projects, so verifying the existence of a payment bond is critical to confirming your ability to get paid. A copy of the bond should be available from the contracting agency.</p> <p>If a bond should have been required by ORS Chapter 279C, but was not, you may have valuable remedy that requires providing notice to the public contracting agency and officers responsible for requiring the bond.</p> <p>A payment bond is not required on public projects: Estimated to be \$100,000 or less, or in the case of contracts for “highways, bridges and other transportation projects, less than \$50,000 (ORS 279C.380(5)).</p> <p>There are no pre-claim notice requirements. Anyone who provides labor or materials may file a claim upon a public works payment bond.</p>
<p>After your performance is completed, serve claim within deadline.</p> 	<p>Statutory notice of claim is provided to the public contracting agency <i>and</i> the contractor that provided the bond must be sent by registered or certified mail or hand delivered no later than:</p> <p>180 days after last day of performance if project first advertised for bid on or after May 26, 2009 (prior to May 26, 2009, the deadline is 120 days from last day of performance). 2009 Or Law Ch. 160 §§1&3.</p> <p>Although not required, send a copy of the statutory notice to the surety who provided the bond.</p> <p>Caution: If bond posted when it may not have been required (see above), then be cautious and comply with deadline and other instructions in the bond (usually 90 days). Consult an attorney if in doubt.</p>
<p>About Six Months After Delivery of Claim</p> 	<p>Retain attorney to review, and if necessary, file lawsuit against surety bond. Deadline to file is 2 years from the last day of your performance, but if the surety or contractor has not paid within six months, there may be other significant issues. Also, if you sent the Notice of Claim to the surety, after six (6) months, you may be able to recover your attorney fees in litigation if you recover more than what the surety offered. See ORS 742.061. Attorney fees may also be recoverable if your contract so provides.</p> <p>Caution: If bond posted when it may not have been required (see above), then be cautious and comply with all terms of the bond, including the deadline recited in the bond for commencing an action (often 1 year). Consult an attorney if in doubt.</p>

This summary provides general information about a complicated and often-changing area of law. This summary should **not** take the place of individualized legal advice. Some of the terms used above have specific statutory meanings. There may be other significant legal requirements or limitations to your ability to pursue a payment bond claim.

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