

House Bill 3301

Sponsored by Representatives CLEM, ESQUIVEL, D EDWARDS, GIROD, Senator PROZANSKI; Representatives BARKER, BARNHART, CAMERON, MERKLEY, READ, ROSENBAUM, SHIELDS, WITT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes findings concerning use of Oregon workers to perform services contracted for by state agencies. Requires state contracting agencies to award state contracts for services in accordance with procedures that promote investment of state funds in jobs and economy of Oregon and United States. Requires proposer submitting proposal on state contract for services to disclose personnel deployment plan. Provides exceptions. Requires contracting agencies to give preferences to local proposers, state proposers and United States proposers. Requires Oregon Department of Administrative Services to adopt rules.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to state contracting for services in Oregon; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 5 of this 2007 Act are added to and made a part of ORS chapter 279B.

SECTION 2. The Legislative Assembly finds and declares that:

(1) Workers who perform services in Oregon pay income taxes to the state. Employers who do business in Oregon pay corporate excise taxes to the state. Workers and employers tend to meet their personal and business needs through expenditures in the communities where they work, further promoting the economic vitality of the local communities and of Oregon.

(2) Creation and retention of gainful employment performed in Oregon reduces the burden on the state to provide unemployment benefits, medical benefits, employment assistance and other taxpayer-funded assistance.

(3) Under ORS 279A.015, meaningful competition for public contracts may be obtained by evaluation of performance factors and other aspects of service and product quality, as well as pricing, in arriving at the best value to the state. The best value to the state is derived not only through effective and efficient contracting practices, but also through the employment of Oregon residents and increased economic vitality within the state.

(4) Oregon citizens and taxpayers expect contracting agencies to operate in an economical and sustainable manner that keeps tax dollars in the economic community that generated those dollars, thus ensuring that those dollars continue contributing to economic activity and job creation. The state should acknowledge the contributions and investments that Oregon workers and businesses make to Oregon and the benefits that work performed in Oregon confers on the state by requiring contracting agencies to consider these contributions, investments and benefits when awarding public contracts for services.

SECTION 3. To the extent permitted by state and federal law, state contracting agencies

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 shall solicit and award public contracts for services in accordance with procedures that
 2 promote the investment of state contract funds in the jobs and economy of Oregon and the
 3 United States.

4 **SECTION 4.** (1) As used in this section, “local” means the county in which a public con-
 5 tract is performed and adjacent counties.

6 (2) In a request for proposals issued under ORS 279B.060 for a public contract for ser-
 7 vices, a state contracting agency shall include:

8 (a) A clause that requires a proposer to disclose in the proposal the personnel deployment
 9 plan, described in subsection (3) of this section, that the proposer intends to follow in per-
 10 forming the contract; and

11 (b) A clause stating that the personnel deployment plan will be a factor used by the
 12 agency to evaluate proposals.

13 (3) In the disclosure of a personnel deployment plan, a proposer shall certify:

14 (a) The number of workers the proposer plans to deploy directly and through first-tier
 15 subcontractors to perform work directly required by the contract;

16 (b) The minimum number of workers that the proposer will employ locally and in Oregon;
 17 and

18 (c) Whether the proposer is based locally or in Oregon and whether the proposer’s cor-
 19 porate headquarters is local or in Oregon.

20 (4) When evaluating proposals under ORS 279B.060 (10), a state contracting agency shall
 21 reject a proposal that does not include a personnel deployment plan.

22 (5) Notwithstanding subsections (2) to (4) of this section, a state contracting agency may
 23 exempt a request for proposals and the proposals from the requirements of subsections (2)
 24 to (4) of this section if the agency determines in writing that:

25 (a) Applying the requirements would conflict with applicable grant conditions or other
 26 restrictions imposed by the funding source;

27 (b) The services required by the agency cannot reasonably be performed in Oregon or
 28 cannot be performed in Oregon in quantities or within delivery times that are reasonably
 29 useful or usable by the agency;

30 (c) Applying the requirements would, according to relevant legal authority, be in conflict
 31 with or not permitted under applicable federal law, treaties or regulations;

32 (d) All services to be performed under the contract must, by their nature, physically be
 33 performed within Oregon; or

34 (e) The requirements would, because of exceptional circumstances, be in conflict with the
 35 needs of the agency.

36 (6) State contracting agencies shall report exemptions allowed under subsection (5) of
 37 this section to the Oregon Department of Administrative Services. The department shall
 38 maintain a list of exemptions and make the list available to the public.

39 (7) For purposes of evaluating proposals, a contracting agency shall:

40 (a) Give first preference to a proposer that is owned or headquartered locally, unless the
 41 proposer’s proposal price is more than 7.5 percent higher than competing proposals from
 42 proposers that are not owned or headquartered locally;

43 (b) Give second preference to a proposer that is owned or headquartered in this state,
 44 unless the proposer’s proposal price is more than five percent higher than competing pro-
 45 posals from proposers that are not owned or headquartered in this state; and

1 (c) Give third preference to a proposer that is owned or headquartered in the United
2 States, unless the proposer's proposal price is more than 2.5 percent higher than competing
3 proposals from proposers that are not owned or headquartered in the United States.

4 (8) The preferences described in subsection (7) of this section are in addition to and not
5 in lieu of the preferences described in ORS 279A.120.

6 **SECTION 5.** The Oregon Department of Administrative Services shall adopt rules:

7 (1) For evaluating personnel deployment plans as required in proposals for public con-
8 tracts for services that are subject to section 4 (2) of this 2007 Act;

9 (2) For reporting and listing exemptions allowed under section 4 (5) of this 2007 Act; and

10 (3) For applying the preferences described in section 4 (7) of this 2007 Act.

11 **SECTION 6.** Sections 2 to 5 of this 2007 Act apply only to public contracts for services
12 advertised, but if not advertised then entered into, on or after January 1, 2008.

13 **SECTION 7.** (1) Sections 2 to 5 of this 2007 Act become operative on January 1, 2008.

14 (2) The Oregon Department of Administrative Services may take any action before the
15 operative date of sections 2 to 5 of this 2007 Act that is necessary to enable the department
16 to exercise, on and after the operative date of sections 2 to 5 of this 2007 Act, all the duties,
17 functions and powers conferred on the department by sections 2 to 5 of this 2007 Act.

18 **SECTION 8.** This 2007 Act being necessary for the immediate preservation of the public
19 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
20 on its passage.

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