

House Bill 2037

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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**.

Requires Oregon Department of Administrative Services and local contracting agencies to maintain records concerning certain public contracts and to submit reports concerning that information to Governor and Legislative Assembly.

Provides that records that agencies maintain are public records, but requires agencies to redact information other than individual's name that could identify individual before disclosing records. Requires agencies to make records available electronically by means of Internet.

A BILL FOR AN ACT

1
2 Relating to disclosures concerning public contracts.

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

4 **SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of the Public**
5 **Contracting Code.**

6 **SECTION 2. (1) As used in this section, "consulting services" means work that a person**
7 **other than a regular employee of a state contracting agency or local contracting agency does**
8 **for or on behalf of the agency in return for compensation provided under the terms of a**
9 **public contract. The work may include, but is not limited to:**

10 (a) **Performing or providing research, analysis, assessments, data processing or computer**
11 **programming, training or education, accounting, audits or evaluations, treatment or secu-**
12 **rity;**

13 (b) **Giving professional advice or recommendations;**

14 (c) **Designing business or communications processes, procedures, methods or strategies;**
15 **or**

16 (d) **Other work related to the functions of the state contracting agency or local con-**
17 **tracting agency.**

18 (2) **The Oregon Department of Administrative Services shall maintain records related to**
19 **the consulting services that contracting state agencies procure by means of public contracts.**
20 **A local contracting agency shall maintain records related to the consulting services that the**
21 **local contracting agency procures by means of a public contract. The records must include,**
22 **at a minimum, the following information:**

23 (a) **For each public contract for consulting services that the agency awarded in the pre-**
24 **vious fiscal year:**

25 (A) **The procedure the agency used to solicit and award the contract. The record should**
26 **note whether the procedure involved competitive bidding or competitive proposals and sum-**
27 **marize the extent to which the procedure sought to and succeeded in soliciting bids or pro-**
28 **posals from minorities, women or emerging small businesses.**

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 (B) The total number of bids or proposals the agency received in connection with the
2 contract.

3 (C) The contract identification number, the contract term and the award date.

4 (D) The contract price, if known, or the estimated total dollar value.

5 (E) The nature of the consulting service.

6 (F) The name, address, employer and employment category or job description of each
7 person that provided consulting services under the contract, including subcontractors.

8 (G) The number of hours each person, including each subcontractor, worked in providing
9 consulting services to the agency under the terms of the contract.

10 (H) The total compensation each person, including each subcontractor, received under
11 the contract for providing consulting services to the agency.

12 (I) A summary of each amendment to the contract that changed the contract term, the
13 contract price or estimated total value, the nature of the consulting services or the identity
14 of a person providing consulting services under the contract, including the identity of sub-
15 contractors.

16 (b) For the aggregated total of public contracts for consulting services that the agency
17 entered into in the previous fiscal year:

18 (A) The total number of such contracts that the agency awarded.

19 (B) The total number of persons, including subcontractors, that provided consulting ser-
20 vices to the agency.

21 (C) The total number of minorities, women or emerging small businesses that provided
22 consulting services to the agency.

23 (D) The total number of public contracts for consulting services that the agency awarded
24 to each person that provided consulting services to the agency, including each subcontractor.

25 (E) The total compensation the agency paid to each person, including subcontractors,
26 that provided consulting services to the agency under all contracts the agency awarded to
27 the person.

28 (3) Not later than 180 days after the end of each fiscal year, the Oregon Department of
29 Administrative Services and each local contracting agency shall submit to the Governor and
30 the Legislative Assembly a report that summarizes the information in the records described
31 in subsection (2) of this section. The department shall summarize the information for each
32 state contracting agency.

33 (4) The reports required under subsection (3) of this section are public records under
34 ORS 192.410 to 192.505. Before disclosing a report in which an individual is identified, an
35 agency or a state official shall redact information, other than the individual's name, that
36 could identify the individual, including information such as an address or Social Security
37 number. The department and each local contracting agency shall make the information de-
38 scribed in subsection (3) of this section available in a searchable database that is accessible
39 to the public by means of the Internet, provided that the database may not include any per-
40 sonally identifiable information for any individual other than the individual's name.

41 (5) A state contracting agency or local contracting agency shall require all contractors,
42 including subcontractors, that provide consulting services to the agency to submit an annual
43 report to the agency that includes:

44 (a) The employment classifications set forth under the terms of each public contract for
45 consulting services that a contractor or subcontractor has with the agency, together with

1 the number of the contractor's or subcontractor's employees who belong to each classifica-
2 tion;

3 (b) The number of hours each employee worked in providing consulting services under
4 the contract; and

5 (c) The total compensation under the contract for each of the contractor's or subcon-
6 tractor's employees who provide consulting services to the agency and the total compen-
7 sation under the contract for all of the contractor's or subcontractor's employees who
8 provide consulting services to the agency.

9 (6) The reports described in subsection (5) of this section are public records under ORS
10 192.410 to 192.505. The state contracting agency or local contracting agency must make the
11 reports available for public inspection and copying, but before disclosing a report in which
12 an individual is identified, an agency or a state official shall redact information, other than
13 the individual's name, that could identify the individual, including information such as an
14 address or Social Security number.

15 **SECTION 3.** (1) The Oregon Department of Administrative Services shall maintain re-
16 cords of state contracting agencies' active contracts for procuring goods and services that
17 have a contract price that exceeds \$50,000. A local contracting agency shall maintain records
18 of the local contracting agency's active contracts for procuring goods and services that have
19 a contract price that exceeds \$50,000. The records the department or the local contracting
20 agency maintains must include information sufficient and detailed enough to produce the
21 report described in subsection (2) of this section.

22 (2) Not later than 180 days after the end of each fiscal year, the department and each
23 local contracting agency shall submit to the Governor and the Legislative Assembly a report
24 that includes the following information regarding contracts described in subsection (1) of this
25 section:

26 (a) A table that lists individual contracts awarded during the previous fiscal year, in-
27 cluding contracts awarded as part of a cooperative procurement. The department's report
28 must identify the state contracting agency that awarded the contract. The table prepared
29 by the department or by a local contracting agency must include:

30 (A) The name of the contractor;

31 (B) The contract price or estimated dollar value of the contract;

32 (C) The total amount the state contracting agency or the local contracting agency actu-
33 ally paid under the terms of the contract in the previous fiscal year and over the life of the
34 contract up until the date on which the agency prepared the report;

35 (D) Codes that identify the category to which the agency assigned the contract, along
36 with an explanation of the categories in a legend that accompanies the table; and

37 (E) The source selection method the agency used to solicit and award the contract, in-
38 cluding whether the agency awarded the contract on the basis of a sole source, emergency,
39 special or otherwise negotiated procurement and whether the agency chose the contractor
40 on the basis of the lowest bid or the best value.

41 (b) Tables that list the contracts the agency has awarded in the previous fiscal year by
42 frequency of the award to a particular contractor, by the number of bids the contract solici-
43 tation attracted and by the source selection method the agency used in awarding the con-
44 tract.

45 (c) A table that lists the contracts that the contracting state agency or local contracting

1 agency solicited but did not award. Each listing must show the reason for the decision not
 2 to award, the source selection method used in the solicitation, the number of protests in
 3 connection with the solicitation and the outcome of the protest process. The department's
 4 table must collate the list by state contracting agency.

5 (d) Tables or narratives that summarize the following information:

6 (A) The total number of contracts that the local contracting agency or each state con-
 7 tracting agency awarded in the previous fiscal year, along with the total expenditures for all
 8 such contracts up until the date on which the agency produced the report. The table or
 9 narrative must collate or arrange the contracts and expenditures by major contract catego-
 10 ries including, but not limited to:

- 11 (i) Consulting;
- 12 (ii) Construction;
- 13 (iii) Equipment;
- 14 (iv) Grants;
- 15 (v) Leases;
- 16 (vi) Miscellaneous services;
- 17 (vii) Printing;
- 18 (viii) Repayment agreements;
- 19 (ix) Intergovernmental agreements; and
- 20 (x) Goods.

21 (B) A comparison of the number of contracts the agency solicited and awarded inde-
 22 pendently to the number of contracts the agency solicited and awarded in connection with
 23 a cooperative procurement process. The table or narrative must also show the sum of the
 24 contract prices or estimated dollar values of the contracts solicited and awarded independ-
 25 ently, together with the sum of the agency's expenditures for the contracts up until the date
 26 on which the agency produced the report, compared to the corresponding sums for contracts
 27 solicited and awarded in connection with cooperative procurements.

28 (3) The report described in subsection (2) of this section is a public record under ORS
 29 192.410 to 192.505. The Oregon Department of Administrative Services or the local contract-
 30 ing agency must make the report available for public inspection and copying, but before dis-
 31 closing a report in which an individual is identified, an agency or a state official shall redact
 32 information, other than the individual's name, that could identify the individual, including
 33 information such as an address or Social Security number. The department and each local
 34 contracting agency shall make the report available in a searchable database that is accessible
 35 to the public by means of the Internet, provided that the database may not include any per-
 36 sonally identifiable information for any individual other than the individual's name.
