

A-Engrossed
Senate Bill 667

Ordered by the Senate April 25
Including Senate Amendments dated April 25

Sponsored by COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS PROTECTION

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.

Permits contracting agency to enter into indefinite quantity contract for architectural, engineering or land surveying services **or related services**. Provides mandates and guidelines for indefinite quantity contracts.

Becomes operative on January 1, 2012.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to indefinite quantity contracts for certain personal services; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 279C.100 to**
5 **279C.125.**

6 **SECTION 2. (1) As used in this section, "indefinite quantity contract" means a contract**
7 **for architectural, engineering or land surveying services or related services in which the**
8 **contracting agency:**

9 (a) **Specifies a general limit, stated either as a dollar amount or otherwise, on the quan-**
10 **ty of architectural, engineering or land surveying services or related services that the**
11 **contracting agency might require during a specific period of time, but does not specify the**
12 **exact quantity the contracting agency will require; and**

13 (b) **Places a work order under the terms of the contract for each specific quantity of**
14 **architectural, engineering or land surveying services or related services the contracting**
15 **agency requires within the specific period of time.**

16 (2)(a) **A contracting agency, subject to ORS 279C.105, may award a contract as an indef-**
17 **inite quantity contract if the contracting agency cannot specify in advance a particular**
18 **quantity, other than a minimum quantity, of architectural, engineering or land surveying**
19 **services or related services that the contracting agency requires during a specific period of**
20 **time.**

21 (b) **A contracting agency may award a contract as an indefinite quantity contract only**
22 **if the contracting agency anticipates a recurring need for a minimum quantity of architec-**
23 **tural, engineering or land surveying services or related services for the term of the indefinite**
24 **quantity contract.**

25 (3) **Solicitation materials and the terms and conditions for an indefinite quantity contract**
26 **issued in accordance with this section must:**

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 (a) Specify the term of the indefinite quantity contract, which may not exceed three
2 years;

3 (b) Specify the minimum quantity and the maximum quantity of architectural, engineer-
4 ing or land surveying services or related services the contracting agency may require under
5 the indefinite quantity contract;

6 (c) Include a statement of work, a specification for services or a similar description of
7 the nature, general scope, complexity and purpose of the procurement that will reasonably
8 enable a prospective bidder or proposer to decide whether to submit a bid or proposal;

9 (d) State that the contracting agency will evaluate bids and proposals and award the
10 contract in accordance with the provisions of ORS 279C.100 to 279C.125;

11 (e) Specify guidelines or procedures the contracting agency may use when issuing indi-
12 vidual work orders;

13 (f) State that the contracting agency may issue an individual work order under the in-
14 definite quantity contract orally and that the contracting agency will confirm the individual
15 work order in writing; and

16 (g) Specify whether the contracting agency may award the indefinite quantity contract
17 to one contractor or to two or more contractors. If the contracting agency will award the
18 indefinite quantity contract to two or more contractors, the solicitation materials and the
19 terms and conditions of the indefinite quantity contract shall describe the criteria and pro-
20 cedures that the contracting agency will use to select a contractor for each individual work
21 order, to ensure that each contractor has an opportunity to provide services under the con-
22 tract and to give preference to contractors that the contracting agency has not used previ-
23 ously or frequently.

24 (4)(a) A contracting agency that awards a contract as an indefinite quantity contract
25 shall:

26 (A) Award the indefinite quantity contract to a business enterprise that is certified under
27 ORS 200.055, if the estimated contract price for the indefinite quantity contract is \$100,000
28 or less.

29 (B) Issue a work order for at least the minimum quantity of architectural, engineering
30 or land surveying services or related services stated in the solicitation materials for the
31 contract or, if the contracting agency does not issue a work order for the minimum quantity,
32 pay the contractor to which the contracting agency awarded the contract a minimum of two
33 percent of the amount the contracting agency budgeted for the procurement.

34 (C) Issue a work order for additional architectural, engineering or land surveying ser-
35 vices or related services from the contractor under an existing indefinite quantity contract
36 before the contracting agency issues a new request for proposals for the same, similar or
37 related services.

38 (D) Issue an individual work order under an indefinite quantity contract that the con-
39 tracting agency awarded to two or more contractors in accordance with guidelines that
40 provide each contractor with an opportunity to provide services under the contract and that
41 give preference to contractors that the contracting agency has not used previously or fre-
42 quently.

43 (b) A contracting agency in the solicitation materials for an indefinite quantity contract
44 must specify as the minimum quantity of architectural, engineering or land surveying ser-
45 vices or related services a quantity that is equivalent in cost to not less than five percent

1 of the amount of funds that the contracting agency budgeted for architectural, engineering
2 or land surveying services or related services for the term of the indefinite quantity con-
3 tract.

4 (c) An indefinite quantity contract may specify a minimum quantity or a maximum
5 quantity of architectural, engineering or land surveying services or related services for
6 which a contracting agency may issue an individual work order and may specify a maximum
7 quantity of architectural, engineering or land surveying services or related services for
8 which the contracting agency may issue an individual work order within a specific period of
9 time.

10 (d) A contracting agency that awards a contract as an indefinite quantity contract may
11 not require a contractor to obtain professional liability insurance if the contractor does not
12 require a professional license or a licensed engineer to perform the work that is the subject
13 of the contract.

14 (5) A contractor that is a party to an indefinite quantity contract shall provide archi-
15 tectural, engineering or land surveying services or related services in response to each work
16 order the contracting agency issues under the indefinite quantity contract, but may not
17 provide a quantity of architectural, engineering or land surveying services or related services
18 that exceeds the maximum quantity specified in the indefinite quantity contract or in an
19 individual work order issued under the indefinite quantity contract.

20 (6) The term of an indefinite quantity contract begins only at the time a contracting
21 agency issues an initial work order under the indefinite quantity contract. The term of the
22 indefinite quantity contract ends as provided in the indefinite quantity contract.

23 **SECTION 3.** (1) Section 2 of this 2011 Act becomes operative on January 1, 2012.

24 (2) The Director of the Oregon Department of Administrative Services, the Attorney
25 General or a contracting agency that adopts rules under ORS 279A.065 may take any action
26 before the operative date specified in subsection (1) of this section that is necessary to enable
27 the director, the Attorney General or the contracting agency to exercise, on and after the
28 operative date specified in subsection (1) of this section, all of the duties, functions and
29 powers conferred on the director, the Attorney General or the contracting agency by section
30 2 of this 2011 Act.

31 **SECTION 4.** This 2011 Act being necessary for the immediate preservation of the public
32 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
33 on its passage.

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