

Senate Bill 667

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 **as introduced**.

Permits contracting agency to enter into indefinite quantity contract for architectural, engineering or land surveying 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 in which the contracting agency:**

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

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

15 (2)(a) **A contracting agency, subject to ORS 279C.105, may award a contract as an indef-**
16 **inite quantity contract if the contracting agency:**

17 (A) **Cannot specify in advance a particular quantity, other than a minimum quantity, of**
18 **architectural, engineering or land surveying services that the contracting agency requires**
19 **during a specific period of time; or**

20 (B) **Determines that the contracting agency should initially award a contract for only a**
21 **minimum quantity of architectural, engineering or land surveying services.**

22 (b) **A contracting agency may award a contract as an indefinite quantity contract only**
23 **if the contracting agency anticipates a recurring need for architectural, engineering or land**
24 **surveying services.**

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

27 (a) **Specify the term of the indefinite quantity contract and state whether the contracting**
28 **agency may extend the term or provide an option for additional architectural, engineering**
29 **or land surveying services under the indefinite quantity contract;**

30 (b) **Specify the minimum quantity and the maximum quantity of architectural, engineer-**

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 ing or land surveying services the contracting agency may require under the indefinite
2 quantity contract;

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

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

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

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

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

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

23 (A) Issue a work order for at least the minimum quantity of architectural, engineering
24 or land surveying services stated in the solicitation materials for the contract or, if the
25 contracting agency does not issue a work order for the minimum quantity, pay the contrac-
26 tor to which the contracting agency awarded the contract a minimum of two percent of the
27 amount the contracting agency budgeted for the procurement.

28 (B) Issue a work order for additional architectural, engineering or land surveying ser-
29 vices from the contractor under an existing indefinite quantity contract before the con-
30 tracting agency issues a new request for proposals for the same, similar or related services.

31 (C) Issue an individual work order under an indefinite quantity contract that the con-
32 tracting agency awarded to two or more contractors in accordance with guidelines that
33 provide each contractor with an opportunity to provide services under the contract and that
34 give preference to contractors that the contracting agency has not used previously or fre-
35 quently.

36 (b) A minimum quantity of architectural, engineering or land surveying services under
37 an indefinite quantity contract must be more than a nominal quantity, but may not exceed
38 the quantity of services that the contracting agency reasonably requires to accomplish the
39 purpose for which the contracting agency awarded the indefinite quantity contract.

40 (c) An indefinite quantity contract may specify a minimum quantity or a maximum
41 quantity of architectural, engineering or land surveying services for which a contracting
42 agency may issue an individual work order and may specify a maximum quantity of archi-
43 tectural, engineering or land surveying services for which the contracting agency may issue
44 an individual work order within a specific period of time.

45 (d) A contracting agency that awards a contract as an indefinite quantity contract may

1 not require a contractor to obtain professional liability insurance if the contractor does not
2 require a professional license or a licensed engineer to perform the work that is the subject
3 of the contract.

4 (5) A contractor that is a party to an indefinite quantity contract shall provide archi-
5 tectural, engineering or land surveying services in response to each work order the con-
6 tracting agency issues under the indefinite quantity contract, but may not provide a quantity
7 of architectural, engineering or land surveying services that exceeds the maximum quantity
8 specified in the indefinite quantity contract or in an individual work order issued under the
9 indefinite quantity contract.

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

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

14 (2) The Director of the Oregon Department of Administrative Services, the Attorney
15 General or a contracting agency that adopts rules under ORS 279A.065 may take any action
16 before the operative date specified in subsection (1) of this section that is necessary to enable
17 the director, the Attorney General or the contracting agency to exercise, on and after the
18 operative date specified in subsection (1) of this section, all of the duties, functions and
19 powers conferred on the director, the Attorney General or the contracting agency by section
20 2 of this 2011 Act.

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