

# Products of Individuals with Disabilities Law

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## Exemptions and Exceptions to Public Contracting Code (ORS 279A and ORS 279C)

### **279A.025 Application of Public Contracting Code.**

(1) Except as provided in subsections (2) to (4) of this section, the Public Contracting Code applies to all public contracting.

(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with qualified nonprofit agencies providing employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

### **279C.335 Competitive bidding; exceptions; exemptions.**

(1) All public improvement contracts shall be based upon competitive bids except:

(a) Contracts made with qualified nonprofit agencies providing employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

## Products of Individuals with Disabilities ORS 279.835-.855

### **279.835 Definitions for ORS 279.835 to 279.855. As used in ORS 279.835 to 279.855:**

(1) “Department” means the Oregon Department of Administrative Services.

(2) “Direct labor” includes all work required for preparation, processing and packing, but not supervision, administration, inspection and shipping.

(3) “Individual with a disability” means an individual who, because of the nature of disabilities, is not able to participate fully in competitive employment, and for whom specialized employment opportunities must be provided.

(4) “Public agency” or “public contracting agency” means any agency of the State of Oregon or any political subdivision thereof authorized by law to enter into public contracts and any public body created by intergovernmental agreement.

(5) “Qualified nonprofit agency for individuals with disabilities” means a nonprofit activity center or rehabilitation facility:

(a) Organized under the laws of the United States or of this state and operated in the interest of individuals with disabilities, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(b) That complies with any applicable occupational health and safety standard required by the laws of the United States or of this state; and

(c) That in the manufacture of products and in the provision of services, whether or not the products or services are procured under ORS 279.835 to 279.855, during the fiscal year employs individuals with disabilities for not less than 75 percent of the work hours of direct labor required for the manufacture or provision of the products or services.

**279.840 Purpose. The purpose of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 is to further the policy of this state to encourage and assist individuals with disabilities to achieve maximum personal independence through useful and productive gainful employment by assuring an expanded and constant market for sheltered workshop and activity center products and services, thereby enhancing their dignity and capacity for self-support and minimizing their dependence on welfare and need for costly institutionalization.**

**279.845 Duties of Oregon Department of Administrative Services; prices for products and services of nonprofit agency for individuals with disabilities; sources of products and services; rules.**

(1) It is the duty of the Oregon Department of Administrative Services to:

(a) Determine the price of all products manufactured and services offered for sale to the various public agencies by any qualified nonprofit agency for individuals with disabilities. The price shall recover for the workshops the cost of raw materials, labor, overhead, delivery costs and a margin held in reserve for inventory and equipment replacement;

(b) To revise such prices from time to time in accordance with changing cost factors; and

(c) To make such rules regarding specifications, time of delivery and other relevant matters of procedure as shall be necessary to carry out the purposes of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335.

(2) The department shall establish and publish a list of sources or potential sources of products produced by any qualified nonprofit agency for individuals with disabilities and the services provided by any such agency, which the department determines are suitable for procurement by public agencies pursuant to ORS 279.835 to 279.855, 279A.025 (4) and 279C.335. This procurement list and revisions thereof shall be distributed to all public purchasing officers.

(3) The department may not delegate any duty imposed under this section to any person or public agency outside of the department.

**279.850 Procurement of product or service; agreements for procurement.**

(1) If any public agency intends to procure any product or service on the procurement list, that public agency shall, in accordance with rules of the Oregon Department of Administrative Services, procure such product or service, at the price established by the department, from a qualified nonprofit agency for individuals with disabilities, provided the product or service is of the appropriate specifications and is available within the period required by that public agency.

(2) In furthering the purposes of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335, it is the intent of the Legislative Assembly that there be close cooperation between the department, public contracting agencies and qualified nonprofit agencies for individuals with disabilities. The department on behalf of public contracting agencies and qualified nonprofit agencies for individuals with disabilities is authorized to enter into such contractual agreements, cooperative working relationships or other arrangements as may be determined to be necessary for effective coordination and efficient realization of the objectives of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 and any other law requiring procurement of products or services.

**279.855 Entities that may obtain goods and services through Oregon Department of Administrative Services. The following may purchase equipment, materials, supplies and services through the Oregon Department of Administrative Services in the same manner as state agencies as provided in ORS 279A.140 to 279A.155 and 279A.250 to 279A.290:**

(1) Qualified nonprofit agencies for individuals with disabilities participating in the program set forth in ORS 279.835 to 279.855, 279A.025 (4) and 279C.335.

(2) Residential programs when under contract with the Department of Human Services to provide services to youth in the custody of the state.

(3) Public benefit corporations, as defined in ORS 65.001, that provide public services either under contract with a state agency, as defined in ORS 171.133, or under contract with a unit of local government, as defined in ORS 190.003, that funds the contract, in whole or in part, with state funds.