

**PROPOSED AMENDMENTS TO
HOUSE BILL 4122**

1 On page 1 of the printed bill, delete lines 6 through 26 and delete page
2 2.

3 On page 3, delete lines 1 through 8 and insert:

4 **“SECTION 2. (1) As used in this section:**

5 **“(a)(A) ‘Information technology procurement’ means a procure-**
6 **ment that requires a state contracting agency or a public corporation**
7 **to seek and obtain, from an authority other than the state contracting**
8 **agency or the public corporation, initial or additional funding or ap-**
9 **propriations, an increase in an expenditure limitation, new or ex-**
10 **panded authority to issue bonds or certificates of participation or**
11 **other budgetary authority in order to purchase, lease, rent or other-**
12 **wise acquire:**

13 **“(i) New hardware, software or services for data processing, office**
14 **automation or telecommunications;**

15 **“(ii) An overhaul, upgrade or replacement of a substantial portion**
16 **of the hardware or software in an existing data processing, office au-**
17 **tomation or telecommunications system; or**

18 **“(iii) A substantial expansion of existing data processing, office**
19 **automation or telecommunications services.**

20 **“(B) ‘Information technology procurement’ does not include:**

21 **“(i) A procurement for preliminary quality assurance services or**
22 **quality management services;**

1 “(ii) A routine update to hardware or software within an existing
2 data processing, office automation or telecommunications system;

3 “(iii) A renewal of an existing contract for data processing, office
4 automation or telecommunications services under terms and condi-
5 tions that are substantially the same as in the existing contract; or

6 “(iv) A replacement of a component of an existing data processing,
7 office automation or telecommunications system that is not essential
8 for the system to function as designed or that occurs at the end of the
9 component’s anticipated life cycle.

10 “(b) ‘Preliminary quality assurance services’ means a set of services
11 in which a contractor provides an independent and objective review
12 of a state contracting agency’s or a public corporation’s plans, spec-
13 ifications, estimates, documentation, available resources and overall
14 purpose for an information technology procurement, including ser-
15 vices in which the contractor evaluates a proposed information tech-
16 nology procurement against applicable quality standards and best
17 practices from private industry and other sources.

18 “(c)(A) ‘Public corporation’ means a corporation:

19 “(i) The operations of which are subject to control by this state or
20 by an agency or instrumentality of this state, or by officers of this
21 state or of an agency or instrumentality of this state;

22 “(ii) That is organized, at least in part, to serve a public purpose;
23 and

24 “(iii) That receives public funds or other support from an entity
25 described in sub-subparagraph (i) of this subparagraph.

26 “(B) ‘Public corporation’ does not include a person or entity de-
27 scribed in ORS 174.108 (3).

28 “(d) ‘Quality management services’ means a set of services in which
29 a contractor provides an independent and objective review and evalu-
30 ation of another contractor’s performance to determine whether the

1 other contractor satisfies the goals and meets the specifications for
2 an information technology procurement that a state contracting
3 agency or a public corporation sets forth in the state contracting
4 agency's or public corporation's solicitation documents, contracts,
5 statements of work or related documents and includes, but is not
6 limited to, services in which the contractor:

7 “(A) Identifies quality standards that apply or should apply to an
8 information technology procurement;

9 “(B) Suggests methods and means by which the other contractor
10 may meet quality standards identified in subparagraph (A) of this
11 paragraph;

12 “(C) Reviews and evaluates the other contractor's performance
13 regularly as the other contractor provides the hardware, software or
14 services for an information technology procurement;

15 “(D) Identifies omissions or gaps in the other contractor's planning,
16 execution, control, methodology, communication or reporting as the
17 other contractor provides or prepares to provide the hardware, soft-
18 ware or services for an information technology procurement;

19 “(E) Identifies risks in the other contractor's plans or approach to
20 providing the hardware, software or services for an information tech-
21 nology procurement and suggests methods to reduce, mitigate or
22 eliminate the risks;

23 “(F) Assists the state contracting agency or the public corporation
24 in testing or otherwise evaluating the hardware, software or services
25 the other contractor provides for an information technology procure-
26 ment to determine whether the hardware, software or services con-
27 form with the quality standards identified under subparagraph (A) of
28 this paragraph;

29 “(G) Advises the state contracting agency or public corporation as
30 to whether the state contracting agency or public corporation should

1 accept the hardware, software or services as conforming to the quality
2 standards identified in subparagraph (A) of this paragraph or as oth-
3 erwise meeting the state contracting agency's or public corporation's
4 needs, specifications or expectations; and

5 “(H) Identifies unsatisfactory performance and suggests methods
6 the other contractor might use to eliminate the causes of unsatisfac-
7 tory performance.

8 “(2)(a) A state contracting agency or public corporation that con-
9 ducts an information technology procurement under this chapter
10 shall, in a separate procurement, obtain quality management services
11 from a qualified contractor if the contract price for the information
12 technology procurement exceeds \$5 million or if the information
13 technology procurement meets any three or more of the following
14 criteria:

15 “(A) Any subcontract or the entire contract price for the informa-
16 tion technology procurement exceeds \$1 million;

17 “(B) The hardware, software or services for the information tech-
18 nology procurement must operate without failure during the state
19 contracting agency's or public corporation's normal business hours;

20 “(C) The contractor that provides the hardware, software or ser-
21 vices for the information technology procurement will require more
22 than one year to do so;

23 “(D) More than one state contracting agency or public corporation
24 will use or have responsibility for managing or maintaining the hard-
25 ware, software or services acquired in an information technology pro-
26 curement;

27 “(E) The state contracting agency or public corporation cannot
28 provide sufficient quality management services for the information
29 technology procurement with the state contracting agency's or public
30 corporation's own personnel or resources because the information

1 technology procurement is too complex; or

2 “(F) The information technology procurement meets other criteria
3 that the State Chief Information Officer by rule defines as requiring
4 a state contracting agency or public corporation to procure quality
5 management services.

6 “(b) A state contracting agency or public corporation may, subject
7 to ORS 279B.040, procure preliminary quality assurance services from
8 a contractor if the information technology procurement meets the
9 standards set forth in paragraph (a) of this subsection or if the state
10 contracting agency or public corporation otherwise believes that the
11 preliminary quality assurance services will enable the contracting
12 agency or public corporation to conduct a successful information
13 technology procurement.

14 “(3)(a) Notwithstanding any procurement authority that a state
15 contracting agency or a public corporation has that is not subject to
16 the authority of the Director of the Oregon Department of Adminis-
17 trative Services under ORS 279A.050 (2) or (7), the state contracting
18 agency or public corporation is subject to the provisions of subsection
19 (2) of this section and shall consult with the director and follow the
20 policies and procedures of the Oregon Department of Administrative
21 Services to determine the extent of preliminary quality assurance
22 services or quality management services that the state contracting
23 agency or public corporation will require for an information technol-
24 ogy procurement.

25 “(b) Notwithstanding the Oregon Health Authority’s exemption in
26 ORS 279A.050 (7) from the authority that the Oregon Department of
27 Administrative Services has over all state agency information tech-
28 nology contracts, the Oregon Health Authority shall consult with the
29 Director of the Oregon Department of Administrative Services and
30 follow the policies and procedures of the Oregon Department of Ad-

1 **ministrative Services to determine the extent of preliminary quality**
2 **assurance services or quality management services that the Oregon**
3 **Health Authority will require for an information technology procure-**
4 **ment.”.**

5 On page 4, line 15, before “procurement” insert “information
6 technology”.

7 In line 23, after the period insert “If the contracting agency determines
8 that a bidder or proposer is not responsible, the contracting agency shall
9 provide the bidder or proposer with written notice of the contracting
10 agency’s determination.”.

11 Delete line 45.

12 On page 5, delete lines 1 through 4 and insert:

13 “(e) Complied with the tax laws of this state or a political subdivision
14 of this state to the extent that the bidder or proposer is or has previously
15 been liable for a tax due under ORS 305.620 and ORS chapters 316, 317 and
16 318. The bidder or proposer shall demonstrate compliance by submitting a
17 signed affidavit that attests, under penalty of perjury, that the bidder or
18 proposer has complied with all applicable tax laws or that the bidder or
19 proposer is not or has not previously been liable for any tax due under the
20 tax laws of this state or a political subdivision of this state.”.

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