

**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 acquisition’ means a procurement**  
6 **or a set of related procurements that requires a state contracting**  
7 **agency or a public corporation to seek and obtain, from an authority**  
8 **other than the state contracting agency or the public corporation, in-**  
9 **itial or additional funding or appropriations, an increase in an ex-**  
10 **penditure limitation, new or expanded authority to issue bonds or**  
11 **certificates of participation or other budgetary authority in order to**  
12 **purchase, lease, rent or otherwise 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 acquisition’ does not include:**

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

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

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

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

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

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

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

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

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

27       “(B) ‘Public corporation’ does not include:

28       “(i) A person or entity described in ORS 174.108 (3);

29       “(ii) A city, county, local service district, school district, education  
30 service district, community college district or community college ser-

1 vice district or a university with a governing board listed in ORS  
2 352.054; or

3 “(iii) An administrative subdivision of an entity described in sub-  
4 subparagraph (ii) of this subparagraph.

5 “(d) ‘Quality management services’ means a set of services in which  
6 a contractor provides an independent and objective review and evalu-  
7 ation of another contractor’s performance to determine whether the  
8 other contractor satisfies the goals and meets the specifications for  
9 an information technology acquisition that a state contracting agency  
10 or a public corporation sets forth in the state contracting agency’s or  
11 public corporation’s solicitation documents, contracts, statements of  
12 work or related documents and includes, but is not limited to, services  
13 in which the contractor:

14 “(A) Identifies quality standards that apply or should apply to an  
15 information technology acquisition;

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

19 “(C) Reviews and evaluates the other contractor’s performance  
20 regularly as the other contractor provides the hardware, software or  
21 services for an information technology acquisition;

22 “(D) Identifies omissions or gaps in the other contractor’s planning,  
23 execution, control, methodology, communication or reporting as the  
24 other contractor provides or prepares to provide the hardware, soft-  
25 ware or services for an information technology acquisition;

26 “(E) Identifies risks in the other contractor’s plans or approach to  
27 providing the hardware, software or services for an information tech-  
28 nology acquisition and suggests methods to reduce, mitigate or elimi-  
29 nate the risks;

30 “(F) Assists the state contracting agency or the public corporation

1 in testing or otherwise evaluating the hardware, software or services  
2 the other contractor provides for an information technology acquisi-  
3 tion to determine whether the hardware, software or services conform  
4 with the quality standards identified under subparagraph (A) of this  
5 paragraph;

6 “(G) Advises the state contracting agency or public corporation as  
7 to whether the state contracting agency or public corporation should  
8 accept the hardware, software or services as conforming to the quality  
9 standards identified in subparagraph (A) of this paragraph or as oth-  
10 erwise meeting the state contracting agency’s or public corporation’s  
11 needs, specifications or expectations; and

12 “(H) Identifies unsatisfactory performance and suggests methods  
13 the other contractor might use to eliminate the causes of unsatisfac-  
14 tory performance.

15 “(2)(a) A state contracting agency or public corporation that con-  
16 ducts an information technology acquisition under this chapter shall,  
17 in a separate procurement, obtain quality management services from  
18 a qualified contractor if the value of the information technology ac-  
19 quisition exceeds \$5 million or if the information technology acqui-  
20 sition meets any three or more of the following criteria:

21 “(A) Any subcontract or the entire contract price for the informa-  
22 tion technology acquisition exceeds \$1 million;

23 “(B) The hardware, software or services for the information tech-  
24 nology acquisition must operate without failure during the state con-  
25 tracting agency’s or public corporation’s normal business hours;

26 “(C) The contractor that provides the hardware, software or ser-  
27 vices for the information technology acquisition will require more  
28 than one year to do so;

29 “(D) More than one state contracting agency or public corporation  
30 will use or have responsibility for managing or maintaining the hard-

1 ware, software or services acquired in an information technology ac-  
2 quisition;

3 “(E) The state contracting agency or public corporation cannot  
4 provide sufficient quality management services for the information  
5 technology acquisition with the state contracting agency’s or public  
6 corporation’s own personnel or resources because the information  
7 technology acquisition is too complex; or

8 “(F) The information technology acquisition meets other criteria  
9 that the State Chief Information Officer by rule defines as requiring  
10 a state contracting agency or public corporation to procure quality  
11 management services.

12 “(b) A state contracting agency or public corporation may, subject  
13 to ORS 279B.040, procure preliminary quality assurance services from  
14 a contractor if the information technology acquisition meets the  
15 standards set forth in paragraph (a) of this subsection or if the state  
16 contracting agency or public corporation otherwise believes that the  
17 preliminary quality assurance services will enable the contracting  
18 agency or public corporation to conduct a successful information  
19 technology acquisition.

20 “(3) A state contracting agency or public corporation may not ar-  
21 tificially divide or fragment an information technology acquisition so  
22 as to avoid the application of this section.

23 “(4)(a) Notwithstanding any procurement authority that a state  
24 contracting agency or a public corporation has that is not subject to  
25 the authority of the Director of the Oregon Department of Adminis-  
26 trative Services under ORS 279A.050 (2) or (7), the state contracting  
27 agency or public corporation is subject to the provisions of subsection  
28 (2) of this section and shall consult with the director and follow the  
29 policies and procedures of the Oregon Department of Administrative  
30 Services to determine the extent of preliminary quality assurance

1 **services or quality management services that the state contracting**  
2 **agency or public corporation will require for an information technol-**  
3 **ogy acquisition.**

4 **“(b) Notwithstanding the Oregon Health Authority’s exemption in**  
5 **ORS 279A.050 (7) from the authority that the Oregon Department of**  
6 **Administrative Services has over all state agency information tech-**  
7 **nology contracts, the Oregon Health Authority shall consult with the**  
8 **Director of the Oregon Department of Administrative Services and**  
9 **follow the policies and procedures of the Oregon Department of Ad-**  
10 **ministrative Services to determine the extent of preliminary quality**  
11 **assurance services or quality management services that the Oregon**  
12 **Health Authority will require for an information technology acquisi-**  
13 **tion.”.**

14 On page 4, line 15, delete “procurement” and insert “information tech-  
15 nology acquisition”.

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

20 Delete line 45.

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

22 “(e) Complied with the tax laws of this state or a political subdivision  
23 of this state, including ORS 305.620 and ORS chapters 316, 317 and 318. The  
24 bidder or proposer shall demonstrate compliance by submitting a signed af-  
25 fidavit that attests, under penalty of perjury, that the bidder or proposer has  
26 complied with the tax laws of this state or a political subdivision of this  
27 state.”.

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