

# D R A F T

## SUMMARY

Removes requirement that bidder or proposer for public contract demonstrate responsibility by submitting signed affidavit that attests that bidder or proposer complied with tax laws of this state.

Becomes operative 91 days after effective date of Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to requirements for responsibility determinations in public con-  
3 tracting; creating new provisions; amending ORS 279B.110; and declaring  
4 an emergency.

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

6 **SECTION 1.** ORS 279B.110, as amended by section 3, chapter 77, Oregon  
7 Laws 2014, is amended to read:

8 279B.110. (1) As part of a contracting agency's evaluation of a bid or  
9 proposal, the contracting agency shall determine whether the bidder or  
10 proposer is responsible in accordance with the standards of responsibility set  
11 forth in subsection (2) of this section. If the contracting agency determines  
12 that a bidder or proposer is not responsible, the contracting agency shall  
13 provide the bidder or proposer with written notice of the contracting  
14 agency's determination.

15 (2) In order for a contracting agency to determine that a bidder or  
16 proposer is responsible, the bidder or proposer must demonstrate to the  
17 contracting agency that the bidder or proposer:

18 (a) Has available the appropriate financial, material, equipment, facility  
19 and personnel resources and expertise, or has the ability to obtain the re-

1 sources and expertise, necessary to meet all contractual responsibilities.

2 (b) Completed previous contracts of a similar nature with a satisfactory  
3 record of performance. For purposes of this paragraph, a satisfactory record  
4 of performance means that to the extent that the costs associated with and  
5 time available to perform a previous contract remained within the bidder's  
6 or proposer's control, the bidder or proposer stayed within the time and  
7 budget allotted for the procurement and otherwise performed the contract in  
8 a satisfactory manner. The contracting agency shall document the bidder's  
9 or proposer's record of performance if the contracting agency finds under  
10 this paragraph that the bidder or proposer is not responsible.

11 (c) Has a satisfactory record of integrity. The contracting agency in  
12 evaluating the bidder's or proposer's record of integrity may consider, among  
13 other things, whether the bidder or proposer has previous criminal con-  
14 victions for offenses related to obtaining or attempting to obtain a contract  
15 or subcontract or in connection with the bidder's or proposer's performance  
16 of a contract or subcontract. The contracting agency shall document the  
17 bidder's or proposer's record of integrity if the contracting agency finds un-  
18 der this paragraph that the bidder or proposer is not responsible.

19 (d) Is legally qualified to contract with the contracting agency.

20 (e) Complied with the tax laws of this state or a political subdivision of  
21 this state, including ORS 305.620 and ORS chapters 316, 317 and 318. [*The*  
22 *bidder or proposer shall demonstrate compliance by submitting a signed affi-*  
23 *davit that attests, under penalty of perjury, that the bidder or proposer has*  
24 *complied with the tax laws of this state or a political subdivision of this*  
25 *state.*]

26 (f) Supplied all necessary information in connection with the inquiry  
27 concerning responsibility. If a bidder or proposer fails to promptly supply  
28 information concerning responsibility that the contracting agency requests,  
29 the contracting agency shall determine the bidder's or proposer's responsi-  
30 bility based on available information or may find that the bidder or proposer  
31 is not responsible.

1 (g) Was not debarred by the contracting agency under ORS 279B.130.

2 (3) A contracting agency may refuse to disclose outside of the contracting  
3 agency confidential information furnished by a bidder or proposer under this  
4 section when the bidder or proposer has clearly identified in writing the in-  
5 formation the bidder or proposer seeks to have treated as confidential and  
6 the contracting agency has authority under ORS 192.410 to 192.505 to with-  
7 hold the identified information from disclosure.

8 **SECTION 2. The amendments to ORS 279B.110 by section 1 of this**  
9 **2015 Act apply to procurements that a contracting agency advertises**  
10 **or otherwise solicits or, if the contracting agency did not advertise or**  
11 **solicit the procurement, to contracts into which the contracting**  
12 **agency entered on and after the operative date specified in section 3**  
13 **of this 2015 Act.**

14 **SECTION 3. (1) The amendments to ORS 279B.110 by section 1 of**  
15 **this 2015 Act become operative 91 days after the effective date of this**  
16 **2015 Act.**

17 **(2) The Director of the Oregon Department of Administrative Ser-**  
18 **vices, the Director of Transportation, the Attorney General or a con-**  
19 **tracting agency that adopts rules under ORS 279A.065 may take any**  
20 **action before the operative date specified in subsection (1) of this sec-**  
21 **tion that is necessary to enable the director, the Attorney General or**  
22 **the contracting agency to exercise, on and after the operative date**  
23 **specified in subsection (1) of this section, all of the duties, functions**  
24 **and powers conferred on the director, the Attorney General or the**  
25 **contracting agency by the amendments to ORS 279B.110 by section 1**  
26 **of this 2015 Act.**

27 **SECTION 4. This 2015 Act being necessary for the immediate pres-**  
28 **ervation of the public peace, health and safety, an emergency is de-**  
29 **clared to exist, and this 2015 Act takes effect on its passage.**