

D R A F T

SUMMARY

Provides that requirement for bidder or proposer to submit signed affidavit to demonstrate compliance with state tax laws when responding to solicitation for public contract does not apply to bidder or proposer that submits bid or proposal to local contracting agency.

Becomes operative 91 days after effective date of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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2 Relating to a requirement in a public procurement to submit a signed affi-
3 davit to demonstrate compliance with the tax laws of the state; creating
4 new provisions; amending ORS 279B.110; and declaring 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

1 and personnel resources and expertise, or has the ability to obtain the re-
2 sources and expertise, necessary to meet all contractual responsibilities.

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

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

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

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

27 **(B) The requirement under subparagraph (A) of this paragraph to**
28 **submit a signed affidavit does not apply to a bidder or proposer that**
29 **submits a bid or proposal to a local contracting agency.**

30 (f) Supplied all necessary information in connection with the inquiry
31 concerning responsibility. If a bidder or proposer fails to promptly supply

1 information concerning responsibility that the contracting agency requests,
2 the contracting agency shall determine the bidder's or proposer's responsi-
3 bility based on available information or may find that the bidder or proposer
4 is not responsible.

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

6 (3) A contracting agency may refuse to disclose outside of the contracting
7 agency confidential information [*furnished by*] **that** a bidder or proposer
8 **provided** under this section [*when*] **if** the bidder or proposer has clearly
9 identified in writing the information the bidder or proposer seeks to have
10 treated as confidential and the contracting agency has authority under ORS
11 192.410 to 192.505 to withhold the identified information from disclosure.

12 **SECTION 2. The amendments to ORS 279B.110 by section 1 of this**
13 **2015 Act apply to procurements that a contracting agency first adver-**
14 **tises or otherwise solicits or, if the contracting agency does not ad-**
15 **vertise or solicit the procurement, to public contracts that the**
16 **contracting agency enters into on or after the operative date specified**
17 **in section 3 of this 2015 Act.**

18 **SECTION 3. (1) The amendments to ORS 279B.110 by section 1 of**
19 **this 2015 Act become operative 91 days after the effective date of this**
20 **2015 Act.**

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

31 **SECTION 4. This 2015 Act being necessary for the immediate pres-**

1 **ervation of the public peace, health and safety, an emergency is de-**
2 **clared to exist, and this 2015 Act takes effect on its passage.**

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