

House Bill 3324

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT EFFECTIVENESS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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

1
2 Relating to a requirement in a public procurement to submit a signed affidavit to demonstrate
3 compliance with the tax laws of the state; creating new provisions; amending ORS 279B.110; and
4 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 Laws 2014, is amended
7 to read:

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

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

15 (a) Has available the appropriate financial, material, equipment, facility and personnel resources
16 and expertise, or has the ability to obtain the resources and expertise, necessary to meet all con-
17 tractual responsibilities.

18 (b) Completed previous contracts of a similar nature with a satisfactory record of performance.
19 For purposes of this paragraph, a satisfactory record of performance means that to the extent that
20 the costs associated with and time available to perform a previous contract remained within the
21 bidder's or proposer's control, the bidder or proposer stayed within the time and budget allotted for
22 the procurement and otherwise performed the contract in a satisfactory manner. The contracting
23 agency shall document the bidder's or proposer's record of performance if the contracting agency
24 finds under this paragraph that the bidder or proposer is not responsible.

25 (c) Has a satisfactory record of integrity. The contracting agency in evaluating the bidder's or
26 proposer's record of integrity may consider, among other things, whether the bidder or proposer has
27 previous criminal convictions for offenses related to obtaining or attempting to obtain a contract
28 or subcontract or in connection with the bidder's or proposer's performance of a contract or sub-
29 contract. The contracting agency shall document the bidder's or proposer's record of integrity if the
30 contracting agency finds under this paragraph that the bidder or proposer is not responsible.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

2 (e)(A) Complied with the tax laws of *[this]* **the** state or a political subdivision of *[this]* **the** state,
 3 including ORS 305.620 and ORS chapters 316, 317 and 318. The bidder or proposer shall demonstrate
 4 compliance by submitting a signed affidavit that attests, under penalty of perjury, that the bidder
 5 or proposer has complied with the tax laws of *[this]* **the** state or a political subdivision of *[this]* **the**
 6 state.

7 **(B) The requirement under subparagraph (A) of this paragraph to submit a signed affi-**
 8 **davit does not apply to a bidder or proposer that submits a bid or proposal to a local con-**
 9 **tracting agency.**

10 (f) Supplied all necessary information in connection with the inquiry concerning responsibility.
 11 If a bidder or proposer fails to promptly supply information concerning responsibility that the con-
 12 tracting agency requests, the contracting agency shall determine the bidder’s or proposer’s respon-
 13 sibility based on available information or may find that the bidder or proposer is not responsible.

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

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

20 **SECTION 2. The amendments to ORS 279B.110 by section 1 of this 2015 Act apply to**
 21 **procurements that a contracting agency first advertises or otherwise solicits or, if the con-**
 22 **tracting agency does not advertise or solicit the procurement, to public contracts that the**
 23 **contracting agency enters into on or after the operative date specified in section 3 of this**
 24 **2015 Act.**

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

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

34 **SECTION 4. This 2015 Act being necessary for the immediate preservation of the public**
 35 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
 36 **on its passage.**

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