

House Bill 2670

Sponsored by Representative NOSSE (Presession filed.)

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 contracting agency, in solicitation for procurement, must require bidder or proposer to disclose violations of certain laws. Permits bidder or proposer to describe circumstances of violation and steps bidder or proposer took to remedy violation and improve future compliance with laws. Requires contracting agency, in consultation with Attorney General or local contracting review board, to determine whether violations, remedies and assurances of improved compliance, taken together, warrant finding that bidder or proposer has satisfactory record of integrity and is otherwise responsible.

Provides that contractor must require prospective subcontractor to make disclosures similar to disclosures contractor made to contracting agency in bid or proposal.

Requires public contract to provide that contractor and subcontractor must update list of violations every 180 days during term of public contract. Permits contracting agency to consider certain actions after disclosure of new violations.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to disclosures of violations of certain laws required in response to a solicitation for a
3 public contract; creating new provisions; amending ORS 279B.110, 279B.130, 279C.375 and
4 279C.440; and prescribing an effective date.

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

6 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 279A.**

7 **SECTION 2. (1) This section applies to procurements, public contracts or subcontracts**
8 **in which the estimated contract price for the procurement, public contract or subcontract**
9 **exceeds \$100,000.**

10 **(2)(a) A contracting agency, in all solicitation documents the contracting agency uses to**
11 **conduct a procurement under ORS chapter 279B or 279C, shall require each bidder or**
12 **proposer to list in each bid or proposal every instance in the three years preceding the date**
13 **of the bid or proposal in which, to the best of the bidder's or proposer's recollection and**
14 **under penalty of perjury, an administrative proceeding, an arbitration or an action in an**
15 **Oregon court resulted in a determination on the merits of the case that the bidder or**
16 **proposer violated any of these laws:**

17 **(A) The Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq.**

18 **(B) The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. or ORS chapter**
19 **654.**

20 **(C) The National Labor Relations Act, 29 U.S.C. 151 et seq.**

21 **(D) The Davis-Bacon Act, 40 U.S.C. chapter 31, subchapter IV or ORS 279C.800 to**
22 **279C.870.**

23 **(E) The Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.**

24 **(F) The Service Contract Act, 41 U.S.C. chapter 67.**

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 (G) Presidential Executive Order 11246, signed on September 24, 1965.

2 (H) Section 503 of the Rehabilitation Act of 1973, 29 U.S.C. 793.

3 (I) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. 3696, 3698,
4 4214 and 4301 to 4306.

5 (J) The Family and Medical Leave Act, 5 U.S.C. 6381 et seq. and 29 U.S.C. 2601 et seq.

6 (K) Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.

7 (L) The Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

8 (M) The Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 et seq.

9 (N) ORS 653.010 to 653.261.

10 (O) ORS chapter 656.

11 (P) Any other law of the state:

12 (i) That has as the law's purpose protecting worker health, safety or welfare; and

13 (ii) That the Attorney General specifies by rule.

14 (b) If a bidder or proposer has listed an instance of a violation under paragraph (a) of this
15 subsection, the bidder or proposer may describe the nature and circumstances of the vio-
16 lation and any steps the bidder or proposer took to remedy the violation and to improve
17 compliance with the laws described in paragraph (a) of this subsection. The bidder or
18 proposer may include with a bid or proposal a copy of any agreement to remedy a violation
19 that the bidder or proposer entered into with a contracting agency or another agency of the
20 state, of a political subdivision of the state or of a public or municipal corporation in this
21 state.

22 (3) As part of making a determination of a bidder's or proposer's responsibility under
23 ORS 279B.110 or 279C.375, a contracting agency shall consider the information in any list and
24 description that a bidder or proposer submitted with a bid or proposal under subsection (1)
25 of this section and, in consultation with the Attorney General or the contracting agency's
26 local contracting review board, as appropriate, shall determine whether the disclosure of any
27 violation and the description of any remedy and improvement in compliance, taken together,
28 warrant a finding that the bidder or proposer has a satisfactory record of integrity and is
29 otherwise responsible.

30 (4)(a) A contracting agency shall provide in any public contract into which the contract-
31 ing agency enters with a contractor that the contractor shall require each subcontractor to
32 list in a bid or proposal for a subcontract each instance in the three years preceding the date
33 of the bid or proposal in which, to the best of the prospective subcontractor's recollection
34 and under penalty of perjury, an administrative proceeding, an arbitration or an action in
35 an Oregon court has resulted in a determination on the merits of the case that the pro-
36 spective subcontractor violated any of the laws listed in subsection (2)(a)(A) to (P) of this
37 section.

38 (b) If a prospective subcontractor lists an instance of a violation under paragraph (a) of
39 this subsection, the public contract may permit the prospective subcontractor to describe
40 the nature and circumstances of the violation and any steps the prospective subcontractor
41 took to remedy the violation and to improve compliance with the laws listed in subsection
42 (2)(a)(A) to (P) of this section and to submit with a bid or proposal for a subcontract a copy
43 of any agreement to remedy a violation that the prospective subcontractor entered into with
44 a contracting agency or another agency of the state, of a political subdivision of the state
45 or of a public or municipal corporation in this state.

1 (c) A public contract described in paragraph (a) of this subsection must require a con-
 2 tractor to consult with the contracting agency as to whether a prospective subcontractor's
 3 disclosures of any violations and descriptions of any remedies and improvements in compli-
 4 ance, taken together, warrant a finding that the prospective subcontractor has a satisfactory
 5 record of integrity and is otherwise responsible.

6 (5)(a) Each public contract into which a contracting agency enters with a contractor, and
 7 each subcontract into which a contractor enters into with a subcontractor, must provide
 8 that every 180 days during the term of the public contract or subcontract the contractor and
 9 the subcontractor must update the lists described in subsections (1) and (4) of this section
 10 to account for any new violations of the laws described in subsection (2)(a)(A) to (P) of this
 11 section.

12 (b) Within 30 days after receiving an updated list under paragraph (a) of this subsection,
 13 a contracting agency shall consider whether any violations disclosed in the update warrant
 14 a finding that a contractor or subcontractor is not responsible and whether the contracting
 15 agency should:

16 (A) Exercise any of the remedies for breach of a covenant or warranty that are available
 17 in the public contract, including termination;

18 (B) Debar or disqualify a contractor as provided in ORS 279B.130 or 279C.440; or

19 (C) Demand that a contractor or subcontractor agree to remedy the violation and provide
 20 a credible and enforceable assurance of compliance with the laws listed in subsection
 21 (2)(a)(A) to (P) of this section in order to continue to perform the public contract.

22 (6)(a) A contracting agency shall provide in a public contract, and require a contractor
 23 to provide in any subcontract, that a contractor or subcontractor may decide to arbitrate a
 24 claim that arises out of a violation of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e
 25 et seq.) or any tort that is related to or arises out of a claim of sexual assault or harassment
 26 only with the voluntary consent of the claimant, unless:

27 (A) A collective bargaining agreement between the contractor or subcontractor and a
 28 labor organization that represents the claimant provides for arbitration under the circum-
 29 stances described in this subsection; or

30 (B) The claimant entered into a valid contract with the contractor or subcontractor be-
 31 fore the contractor or subcontractor submitted a bid or proposal for the public contract and
 32 the terms of the contract between the claimant and the contractor or subcontractor pro-
 33 vided for arbitration in the circumstances described in this subsection and were not subject
 34 to either party's amendment or to renegotiation during the term of the public contract.

35 (b) Paragraph (a) of this subsection does not apply to a public contract into which a
 36 contracting agency enters solely to procure commercially available goods.

37 (7) The Attorney General, the Director of the Oregon Department of Administrative
 38 Services, the Director of Transportation and a contracting agency that adopts rules under
 39 ORS 279A.065 shall adopt rules to implement the provisions of this section.

40 **SECTION 3.** ORS 279B.110 is amended to read:

41 279B.110. (1) As part of a contracting agency's evaluation of a bid or proposal, the contracting
 42 agency shall determine whether the bidder or proposer is responsible in accordance with the stan-
 43 dards of responsibility set forth in subsection (2) of this section. If the contracting agency deter-
 44 mines that a bidder or proposer is not responsible, the contracting agency shall provide the bidder
 45 or proposer with written notice of the contracting agency's determination.

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

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

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

13 (c) Has a satisfactory record of integrity. The contracting agency in evaluating the bidder's or
 14 proposer's record of integrity may consider, among other things, whether the bidder or proposer has
 15 previous criminal convictions 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 of a contract or sub-
 17 contract, **or if the bidder or proposer has disclosed a violation under section 2 of this 2017**
 18 **Act and has not remedied the violation and agreed to improve compliance with the laws**
 19 **listed in section 2 (2)(a)(A) to (P) of this 2017 Act.** The contracting agency shall document the
 20 bidder's or proposer's record of integrity if the contracting agency finds under this paragraph that
 21 the bidder or proposer is not responsible.

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

23 (e) Complied with the tax laws of the state or a political subdivision of the state, including ORS
 24 305.620 and ORS chapters 316, 317 and 318. The bidder or proposer shall demonstrate compliance
 25 by attesting to the bidder's or proposer's compliance in any way the contracting agency deems
 26 credible and convenient.

27 (f) Possesses an unexpired certificate that the Oregon Department of Administrative Services
 28 issued under ORS 279A.167 if the bidder or proposer employs 50 or more full-time workers and
 29 submitted a bid or proposal for a procurement with an estimated contract price that exceeds
 30 \$500,000 in response to an advertisement or solicitation from a state contracting agency.

31 (g) Supplied all necessary information in connection with the inquiry concerning responsibility.
 32 If a bidder or proposer fails to promptly supply information concerning responsibility that the con-
 33 tracting agency requests, the contracting agency shall determine the bidder's or proposer's respon-
 34 sibility based on available information or may find that the bidder or proposer is not responsible.

35 (h) Was not debarred by the contracting agency under ORS 279B.130.

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

41 **SECTION 4.** ORS 279B.130 is amended to read:

42 279B.130. (1)(a) A contracting agency may debar a prospective bidder or proposer from consid-
 43 eration for award of the contracting agency's contracts for the reasons listed in subsection (2) of
 44 this section after providing the prospective bidder or proposer with notice and a reasonable oppor-
 45 tunity to be heard.

1 (b) A contracting agency may not debar a prospective bidder or proposer under this section for
 2 more than three years.

3 (2) A prospective bidder or proposer may be debarred from consideration for award of a con-
 4 tracting agency's contracts if:

5 (a) The prospective bidder or proposer has been convicted of a criminal offense as an incident
 6 in obtaining or attempting to obtain a public or private contract or subcontract or in the perform-
 7 ance of a public or private contract or subcontract.

8 (b) The prospective bidder or proposer has been convicted under state or federal statutes of
 9 embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen prop-
 10 erty or any other offense indicating a lack of business integrity or business honesty that currently,
 11 seriously and directly affects the prospective bidder's or proposer's responsibility as a contractor.

12 (c) The prospective bidder or proposer has been convicted under state or federal antitrust stat-
 13 utes.

14 (d) The prospective bidder or proposer has committed a violation of a contract provision that
 15 [*is regarded by*] the contracting agency or the Construction Contractors Board [*to be so serious as*
 16 *to justify disqualification*] **regards as serious enough to justify debarment**. A violation may in-
 17 clude but is not limited to [*a failure*] **failing** to perform the terms of a contract or an unsatisfactory
 18 performance in accordance with the terms of the contract[. *However*], **but** a failure to perform or
 19 an unsatisfactory performance caused by acts beyond the control of the contractor [*may not be*
 20 *considered to be*] **is not** a basis for debarment.

21 (e) The prospective bidder or proposer does not carry workers' compensation or unemployment
 22 insurance as required by statute.

23 **(f) The prospective bidder or proposer violated a law listed in section 2 (2)(a)(A) to (P)**
 24 **of this 2017 Act during the term of a previous public contract without agreeing to remedy**
 25 **the violation and provide an enforceable assurance of compliance with the law that the pro-**
 26 **spective bidder or proposer violated.**

27 (3) A contracting agency shall issue a written decision to debar a prospective bidder or proposer
 28 under this section. The decision must:

29 (a) State the reasons for the action taken; and

30 (b) Inform the debarred prospective bidder or proposer of the appeal rights of the prospective
 31 bidder or proposer under ORS 279B.425.

32 (4) A copy of the decision issued under subsection (3) of this section must be mailed or otherwise
 33 furnished immediately to the debarred prospective bidder or proposer.

34 (5) A prospective bidder or proposer that wishes to appeal debarment shall, within three busi-
 35 ness days after receipt of notice of debarment, notify the contracting agency that the prospective
 36 bidder or proposer appeals the debarment as provided in ORS 279B.425.

37 **SECTION 5.** ORS 279C.375 is amended to read:

38 279C.375. (1) After a contracting agency has opened bids and determined that the contracting
 39 agency will award a public improvement contract, the contracting agency shall award the contract
 40 to the lowest responsible bidder.

41 (2) At least seven days before awarding a public improvement contract, unless the contracting
 42 agency determines that seven days is impractical under rules adopted under ORS 279A.065, the
 43 contracting agency shall issue to each bidder or post, electronically or otherwise, a notice of the
 44 contracting agency's intent to award a contract. This subsection does not apply to a contract to
 45 which competitive bidding does not apply under ORS 279C.335 (1)(c) or (d). The notice and the

1 manner in which the notice is posted or issued must conform to rules adopted under ORS 279A.065.

2 (3) In determining the lowest responsible bidder, a contracting agency shall do all of the fol-
 3 lowing:

4 (a) Check the list created by the Construction Contractors Board under ORS 701.227 for bidders
 5 who are not qualified to hold a public improvement contract.

6 (b) Determine whether the bidder is responsible. A responsible bidder must demonstrate to the
 7 contracting agency that the bidder:

8 (A) Has available the appropriate financial, material, equipment, facility and personnel resources
 9 and expertise, or has the ability to obtain the resources and expertise, necessary to meet all con-
 10 tractual responsibilities.

11 (B) Holds current licenses that businesses or service professionals operating in this state must
 12 hold in order to undertake or perform the work specified in the contract.

13 (C) Is covered by liability insurance and other insurance in amounts the contracting agency
 14 requires in the solicitation documents.

15 (D) Qualifies as a carrier-insured employer or a self-insured employer under ORS 656.407 or has
 16 elected coverage under ORS 656.128.

17 (E) Has made the disclosure required under ORS 279C.370.

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

25 (G) Has a satisfactory record of integrity. The contracting agency in evaluating the bidder's
 26 record of integrity may consider, among other things, whether the bidder has previous criminal
 27 convictions for offenses related to obtaining or attempting to obtain a contract or subcontract or in
 28 connection with the bidder's performance of a contract or subcontract, **or if the bidder or proposer**
 29 **has disclosed a violation under section 2 of this 2017 Act and has not remedied the violation**
 30 **and agreed to improve compliance with the laws listed in section 2 (2)(a)(A) to (P) of this 2017**
 31 **Act.** The contracting agency shall document the bidder's record of integrity if the contracting
 32 agency finds under this subparagraph that the bidder is not responsible.

33 (H) Is legally qualified to contract with the contracting agency.

34 (I) Possesses an unexpired certificate that the Oregon Department of Administrative Services
 35 issued under ORS 279A.167, if the bidder employs 50 or more full-time workers and submitted a bid
 36 for a procurement with an estimated contract price that exceeds \$500,000 in response to an adver-
 37 tisement or solicitation from a state contracting agency.

38 (J) Supplied all necessary information in connection with the inquiry concerning responsibility.
 39 If a bidder fails to promptly supply information concerning responsibility that the contracting
 40 agency requests, the contracting agency shall determine the bidder's responsibility based on avail-
 41 able information, or may find that the bidder is not responsible.

42 (c) Document the contracting agency's compliance with the requirements of paragraphs (a) and
 43 (b) of this subsection in substantially the following form:

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RESPONSIBILITY DETERMINATION FORM

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Project Name: _____

Bid Number: _____

Business Entity Name: _____

CCB License Number: _____

Form Submitted By (Contracting Agency):

Form Submitted By (Contracting Agency Representative's Name): _____

Title: _____

Date: _____

(The contracting agency must submit this form with attachments, if any, to the Construction Contractors Board within 30 days after the date of contract award.)

The contracting agency has (check all of the following):

- Checked the list created by the Construction Contractors Board under ORS 701.227 for bidders who are not qualified to hold a public improvement contract.
- Determined whether the bidder has met the standards of responsibility. In so doing, the contracting agency has found that the bidder demonstrated that the bidder:
 - Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities.
 - Holds current licenses that businesses or service professionals operating in this state must hold in order to undertake or perform the work specified in the contract.
 - Is covered by liability insurance and other insurance in amounts required in the solicitation documents.
 - Qualifies as a carrier-insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128.
 - Has disclosed the bidder's first-

- 1 tier subcontractors in accordance
- 2 with ORS 279C.370.
- 3 [] Has a satisfactory record of
- 4 performance.
- 5 [] Has a satisfactory record of
- 6 integrity.
- 7 [] Is legally qualified to contract
- 8 with the contracting agency.
- 9 [] Possesses a certificate that
- 10 the Oregon Department of
- 11 Administrative Services issued under
- 12 ORS 279A.167.
- 13 [] Has supplied all necessary
- 14 information in connection with
- 15 the inquiry concerning
- 16 responsibility.
- 17 [] Determined the bidder to be
- 18 (check one of the following):
- 19 [] Responsible under ORS 279C.375
- 20 (3)(a) and (b).
- 21 [] Not responsible under
- 22 ORS 279C.375 (3)(a) and (b).
- 23 (Attach documentation if the contracting agency finds the bidder not to be responsible.)
- 24

25

26 (d) Submit the form described in paragraph (c) of this subsection, with any attachments, to the

27 Construction Contractors Board within 30 days after the date the contracting agency awards the

28 contract.

29 (4) The successful bidder shall:

- 30 (a) Promptly execute a formal contract; and
- 31 (b) Execute and deliver to the contracting agency a performance bond and a payment bond when
- 32 required under ORS 279C.380.

33 (5) Based on competitive bids, a contracting agency may award a public improvement contract

34 or may award multiple public improvement contracts when specified in the invitation to bid.

35 (6) A contracting agency may not exclude a commercial contractor from competing for a public

36 contract on the basis that the license issued by the Construction Contractors Board is endorsed as

37 a level 1 or level 2 license. As used in this section, "commercial contractor" has the meaning given

38 that term in ORS 701.005.

39 **SECTION 6.** ORS 279C.440 is amended to read:

40 279C.440. (1)(a) A contracting agency may disqualify a person from consideration for award of

41 the contracting agency's contracts for the reasons listed in subsection (2) of this section after pro-

42 viding the person with notice and a reasonable opportunity to be heard.

43 (b) In lieu of the disqualification process described in paragraph (a) of this subsection, a con-

44 tracting agency contracting for a public improvement may petition the Construction Contractors

45 Board to disqualify a person from consideration for award of the contracting agency's public im-

1 improvement contracts for the reasons listed in subsection (2) of this section. The Construction Con-
 2 tractors Board shall provide the person with notice and a reasonable opportunity to be heard.

3 (c) A contracting agency or the Construction Contractors Board may not disqualify a person
 4 under this section for a period of more than three years.

5 (2) A person may be disqualified from consideration for award of a contracting agency's con-
 6 tracts for any of the following reasons:

7 (a) The person has been convicted of a criminal offense as an incident in obtaining or attempting
 8 to obtain a public or private contract or subcontract, or in the performance of such contract or
 9 subcontract.

10 (b) The person has been convicted under state or federal statutes of embezzlement, theft, forgery,
 11 bribery, falsification or destruction of records, receiving stolen property or any other offense indi-
 12 cating a lack of business integrity or business honesty that currently, seriously and directly affects
 13 the person's responsibility as a contractor.

14 (c) The person has been convicted under state or federal antitrust statutes.

15 (d) The person has committed a violation of a contract provision that [*is regarded by*] the con-
 16 tracting agency or the Construction Contractors Board [*to be so serious as*] **regards as serious**
 17 **enough** to justify disqualification. A violation may include but is not limited to [*a failure*] **failing**
 18 to perform the terms of a contract or an unsatisfactory performance in accordance with the terms
 19 of the contract[. *However*], **but** a failure to perform or an unsatisfactory performance caused by acts
 20 beyond the control of the contractor [*may not be considered to be*] **is not** a basis for disqualification.

21 (e) The person does not carry workers' compensation or unemployment insurance as required
 22 by statute.

23 **(f) The prospective bidder or proposer violated a law listed in section 2 (2)(a)(A) to (P)**
 24 **of this 2017 Act during the term of a previous public improvement contract without agreeing**
 25 **to remedy the violation and provide an enforceable assurance of compliance with the law that**
 26 **the prospective bidder or proposer violated.**

27 (3) A contracting agency or the Construction Contractors Board shall issue a written decision
 28 to disqualify a person under this section. The decision shall:

29 (a) State the reasons for the action taken; and

30 (b) Inform the disqualified person of the appeal right of the person under:

31 (A) ORS 279C.445 and 279C.450 if the decision to disqualify was issued by a contracting agency;

32 or

33 (B) ORS chapter 183 if the decision to disqualify was issued by the Construction Contractors
 34 Board.

35 (4) A copy of the decision issued under subsection (3) of this section must be mailed or otherwise
 36 furnished immediately to the disqualified person.

37 **SECTION 7. Section 2 of this 2017 Act and the amendments to ORS 279B.110, 279B.130,**
 38 **279C.375 and 279C.440 by sections 3 to 6 of this 2017 Act apply to procurements that a con-**
 39 **tracting agency advertises or otherwise solicits or, if the contracting agency does not ad-**
 40 **vertise or otherwise solicit the procurement, to public contracts into which the contracting**
 41 **agency enters on or after the operative date specified in section 8 of this 2017 Act.**

42 **SECTION 8. (1) Section 2 of this 2017 Act and the amendments to ORS 279B.110, 279B.130,**
 43 **279C.375 and 279C.440 by sections 3 to 6 of this 2017 Act become operative on January 1, 2018.**

44 **(2) The Attorney General, the Director of the Oregon Department of Administrative**
 45 **Services, the Director of Transportation and a contracting agency that adopts rules under**

1 **ORS 279A.065 may adopt rules and take any other action before the operative date specified**
2 **in subsection (1) of this section that is necessary to enable the Attorney General, the direc-**
3 **tor or the contracting agency, on and after the operative date specified in subsection (1) of**
4 **this section, to exercise all of the duties, functions and powers conferred on the Attorney**
5 **General, the director or the contracting agency by section 2 of this 2017 Act and the**
6 **amendments to ORS 279B.110, 279B.130, 279C.375 and 279C.440 by sections 3 to 6 of this 2017**
7 **Act.**

8 **SECTION 9. This 2017 Act takes effect on the 91st day after the date on which the 2017**
9 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

10