



# Oregon

Kate Brown, Governor

## Department of Transportation

Director's Office  
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**DATE:** February 10, 2018

**TO:** House Committee on Business and Labor

**FROM:** Matthew Garrett, Director

**SUBJECT:** HB 4127, Qualified Based Selection in Projects

The Oregon Department of Transportation has been asked to clarify if HB 4127, relating to a consultant selection process for a public contract for certain services, would impact ODOT contracting and processes. Through our review, we have determined that HB 4127 would not impact ODOT for the following reasons:

- The vast majority of ODOT projects are paid for, at least in part, with federal funds. Once federal funds are involved, ODOT must follow the Brooks Act. Procurement requirements using FWHA funds are found in 23 CFR Part 172 which refer to the Brooks Act and are further defined in 172.7 (a)(1)(iii)(B) "Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria."
- ODOT does not anticipate many projects funded in HB 2017 not to have a federal connection that would require ODOT to follow federal processes.
- The language in HB 4127 is permissive. In the event that ODOT did have a purely state funded project, ODOT would have the option to utilize the process outlined in HB 4127. However, ODOT would use the QBS process to keep the project eligible for federal funds if they became available.