D R A F T

SUMMARY

Requires contracting agency to provide in certain public contracts that contracting agency will not pay invoice for work on public contract that contractor provides by means of information technology unless contractor verifies work by means of tracking software. Specifies features that tracking software must have. Requires contractor to retain and make available to contracting agency or designated person for period of six years after contractor completes performance on public contract information that tracking software generates. Prohibits contractor from charging or collecting costs related to contracting agency's or designated person's use of, or receipt of information from, tracking software.

Becomes operative on January 1, 2020.

Declares emergency, effective on passage.

1   **A BILL FOR AN ACT**

2 Relating to verifying work that contractors perform on public contracts us-

3   ing information technology; and declaring an emergency.

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

5   **SECTION 1. Section 2 of this 2019 Act is added to and made a part**

6 **of ORS chapter 279A.**

7   **SECTION 2. (1)(a) A contracting agency shall provide in a public**

8 **contract with a contract price of $100,000 or more that the contracting**

9 **agency will not pay an invoice for work a contractor performs on the**

10 **public contract by means of information technology, unless the con-**

11 **tractor uses tracking software with the features described in sub-**

12 **section (2) of this section to verify the contractor's work.**

13   **(b) A solicitation for a public contract described in paragraph (a)**

14 **of this subsection must require a prospective contractor to state in a**

1 bid or proposal for the public contract how the prospective contractor

2 will meet the requirement to verify the prospective contractor's work

3 on the public contract. A contracting agency may require a prospec-

4 tive contractor to identify the specific software the prospective con-

5 tractor intends to use to meet the requirement.

6 (2)(a) Software that a contractor may use to track the contractor's

7 work on a public contract described in subsection (1)(a) of this section

8 must include, at a minimum, these features:

9 (A) Automated tracking of input device activity that counts the

10 number of uses of the input device;

11 (B) Automated recording of screen output at least once every three

12 minutes;

13 (C) Real-time cost tracking of the work, based on the hourly rate

14 of the individual who performs the work;

15 (D) Automated reporting that allows a contracting agency to track,

16 in real time or by means of an audit, the overall cost of the work, the

17 cost of each task or deliverable, the cost for each individual the con-

18 tractor employs to perform the work and other relevant performance

19 measures that the contracting agency specifies by rule or by contract;

20 and

21 (E) Communication capabilities that allow the contracting agency

22 to respond to or comment on the contractor's work and on progress

23 on the public contract.

24 (b) The software described in paragraph (a) of this subsection may

25 not record data on individuals that is private or confidential under the

26 laws of this state.

27 (3) A contractor shall retain the records that the software described

28 in subsection (2) of this section generates for a period of at least six

29 years after completing performance on the public contract and shall

30 make the records available to the contracting agency, to the Secretary

31 of State and to federal authorities upon demand.

1   **(4) A contractor may not charge or collect from a contracting**

2 **agency, or a person the contracting agency designates, any cost asso-**

3 **ciated with the contracting agency's or the designated person's use of,**

4 **or receipt of information from, the software described in subsection**

5 **(2) of this section.**

6   <u>SECTION 3.</u> **Section 2 of this 2019 Act applies to procurements that**

7 **a contracting agency advertises or otherwise solicits or, if the con-**

8 **tracting agency does not advertise or otherwise solicit the procure-**

9 **ment, to public contracts into which the contracting agency enters on**

10 **and after the operative date specified in section 4 of this 2019 Act.**

11   <u>SECTION 4.</u> **(1) Section 2 of this 2019 Act becomes operative on**

12 **January 1, 2020.**

13   **(2) The Attorney General, the Director of the Oregon Department**

14 **of Administrative Services, the Director of Transportation and a con-**

15 **tracting agency that adopts rules under ORS 279A.065 or 279A.070 may**

16 **adopt rules and take any other action before the operative date speci-**

17 **fied in subsection (1) of this section that is necessary to enable the**

18 **Attorney General, the director or the contracting agency, on and after**

19 **the operative date specified in subsection (1) of this section, to exercise**

20 **all of the duties, functions and powers conferred on the Attorney**

21 **General, the director or the contracting agency by section 2 of this**

22 **2019 Act.**

23   <u>SECTION 5.</u> **This 2019 Act being necessary for the immediate pres-**

24 **ervation of the public peace, health and safety, an emergency is de-**

25 **clared to exist, and this 2019 Act takes effect on its passage.**

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