

D R A F T

SUMMARY

Digest: Says that people who get public contracts must obey the tax laws of the state, cities and counties and must show proof of compliance with the tax laws. (Flesch Readability Score: 69.6).

Requires public contractors to demonstrate and maintain tax compliance as a condition of the execution of a public contract.

Applies to public contracts executed on or after the effective date of the Act.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax compliance required for public contracts; creating new pro-
3 visions; amending ORS 279B.110; repealing ORS 279B.045; and prescribing
4 an effective date.

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

6 **SECTION 1. Section 2 of this 2025 Act is added to and made a part**
7 **of ORS chapter 305.**

8 **SECTION 2. (1) A state contracting agency, as defined in ORS**
9 **279A.010, as a condition of the execution of a public contract, as de-**
10 **defined in ORS 279A.010, shall require the contractor to demonstrate**
11 **continued compliance with the personal income tax laws of this state**
12 **or the corporate excise or income tax laws of this state, whichever are**
13 **applicable.**

14 **(2) Any state contracting agency may, as provided in section 4 of**
15 **this 2025 Act, terminate a public contract and seek damages and other**
16 **relief available under the terms of the public contract or under appli-**
17 **cable law if the Department of Revenue determines that a contractor**

1 has failed to demonstrate or maintain tax compliance as provided in
2 this section.

3 (3) Notwithstanding ORS 314.835 and 314.840, the Department of
4 Revenue may disclose to a state contracting agency or a political
5 subdivision of this state whether a proposer, bidder or public contrac-
6 tor is in compliance.

7 (4) In determining compliance for purposes of this section, the de-
8 partment may consider whether the proposer, bidder or contractor:

9 (a) Has failed to timely file returns with respect to taxes imposed
10 by ORS chapter 316 or 317, whichever is applicable, for any of the three
11 tax years immediately preceding a year for which a tax return was
12 required to be filed;

13 (b) Has failed to pay any tax within 30 days from the date of mailing
14 of a notice of deficiency or otherwise respond to a notice of deficiency
15 within 30 days from the date of its mailing; or

16 (c) Has been or is under investigation for possible criminal offenses
17 related to the personal income tax laws of this state or the corporate
18 excise and income tax laws of this state, whichever are applicable.

19 (5) The department may enter into agreements with any state con-
20 tracting agency or political subdivision of this state in order to assist
21 in the administration of the tax compliance requirement under this
22 section.

23 **SECTION 3.** Section 4 of this 2025 Act is added to and made a part
24 of ORS chapter 279A.

25 **SECTION 4.** (1) As used in this section, “public contract” means a
26 public contract, a public improvement contract and a contract for
27 public works, as defined in ORS 279C.800.

28 (2) Every public contract must include a representation and war-
29 ranty from the contractor that the contractor has complied with the
30 tax laws of this state, or of a political subdivision of this state, in-
31 cluding but not limited to ORS 305.620 and ORS chapters 316, 317 and

1 **318. Each public contract must also require a covenant from the con-**
2 **tractor to continue to comply with the tax laws of this state, or of a**
3 **political subdivision of this state, during the term of the public con-**
4 **tract and provide that a contractor's failure to comply with the tax**
5 **laws of this state, or of a political subdivision of this state, before the**
6 **contractor executed the public contract or during the term of the**
7 **public contract is a default for which a contracting agency may ter-**
8 **minate the public contract and seek damages and other relief available**
9 **under the terms of the public contract or under applicable law.**

10 **(3) Before entering into a public contract, periodically during the**
11 **term of the public contract and before terminating a public contract**
12 **and seeking damages under subsection (2) of this section, a contract-**
13 **ing agency shall verify the contractor's compliance with the tax laws**
14 **of this state, or of a political subdivision of this state. The contracting**
15 **agency shall consult with the Department of Revenue as provided in**
16 **section 2 of this 2025 Act to verify compliance with the tax laws of this**
17 **state. The contracting agency shall consult with the appropriate**
18 **agency of local government in the jurisdiction in which the contractor**
19 **will perform the public contract to verify compliance with the tax laws**
20 **of a political subdivision of this state.**

21 **SECTION 5.** ORS 279B.110 is amended to read:

22 279B.110. (1) As part of a contracting agency's evaluation of a bid or
23 proposal, the contracting agency shall determine whether the bidder or
24 proposer is responsible in accordance with the standards of responsibility set
25 forth in subsection (2) of this section. If the contracting agency determines
26 that a bidder or proposer is not responsible, the contracting agency shall
27 provide the bidder or proposer with written notice of the contracting
28 agency's determination.

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

1 (a) Has available the appropriate financial, material, equipment, facility
2 and personnel resources and expertise, or has the ability to obtain the re-
3 sources and expertise, necessary to meet all contractual responsibilities.

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

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

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

22 (e) Complied with the tax laws of the state or a political subdivision of
23 the state, including ORS 305.620 and ORS chapters 316, 317 and 318 **as pro-**
24 **vided in section 4 of this 2025 Act.** [*The bidder or proposer shall demon-*
25 *strate compliance by attesting to the bidder's or proposer's compliance in any*
26 *way the contracting agency deems credible and convenient.*]

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

1 (g) Supplied all necessary information in connection with the inquiry
2 concerning responsibility. If a bidder or proposer fails to promptly supply
3 information concerning responsibility that the contracting agency requests,
4 the contracting agency shall determine the bidder's or proposer's responsi-
5 bility based on available information or may find that the bidder or proposer
6 is not responsible.

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

8 (3) A contracting agency may refuse to disclose outside of the contracting
9 agency confidential information furnished by a bidder or proposer under this
10 section when the bidder or proposer has clearly identified in writing the in-
11 formation the bidder or proposer seeks to have treated as confidential and
12 the contracting agency has authority under ORS 192.311 to 192.478 to with-
13 hold the identified information from disclosure.

14 **SECTION 6. ORS 279B.045 is repealed.**

15 **SECTION 7. Sections 2 and 4 of this 2025 Act, the amendments to**
16 **ORS 279B.110 by section 5 of this 2025 Act and the repeal of ORS**
17 **279B.045 by section 6 of this 2025 Act apply to procurements that a**
18 **contracting agency advertises on or after the operative date specified**
19 **in section 8 of this 2025 Act or, if the contracting agency does not ad-**
20 **vertise or solicit the procurement, to a public contract into which the**
21 **contracting agency enters on or after the operative date specified in**
22 **section 8 of this 2025 Act.**

23 **SECTION 8. (1) Sections 2 and 4 of this 2025 Act, the amendments**
24 **to ORS 279B.110 by section 5 of this 2025 Act and the repeal of ORS**
25 **279B.045 by section 6 of this 2025 Act become operative on January 1,**
26 **2026.**

27 **(2) The Attorney General, the Director of the Oregon Department**
28 **of Administrative Services and a contracting agency that adopts rules**
29 **under ORS 279A.065 or 279A.070 may adopt rules and take any other**
30 **action before the operative date specified in subsection (1) of this sec-**
31 **tion that is necessary to enable the Attorney General, the director or**

1 **the contracting agency, on and after the operative date specified in**
2 **subsection (1) of this section, to undertake and exercise all of the du-**
3 **ties, functions and powers conferred on the Attorney General, the di-**
4 **rector or the contracting agency by sections 2 and 4 of this 2025 Act**
5 **and the amendments to ORS 279B.110 by section 5 of this 2025 Act.**

6 **SECTION 9. This 2025 Act takes effect on the 91st day after the date**
7 **on which the 2025 regular session of the Eighty-third Legislative As-**
8 **sembly adjourns sine die.**

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