

D R A F T

SUMMARY

Permits public agency to establish specifications for cleaning and security services that public agency procures from qualified nonprofit agency for individuals with disabilities. Allows public agency to inspect and evaluate cleaning and security services provided and to terminate agreement with qualified nonprofit agency for individuals with disabilities that provides cleaning or security services that do not meet public agency's specifications. Requires public agency to enter into new agreement with another qualified nonprofit agency for individuals with disabilities unless no qualified nonprofit agency for individuals with disabilities can meet public agency's specifications. Requires public agency in new agreement to apply same specifications and to inspect and evaluate provided cleaning and security services using same methods that applied under terminated agreement.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to services provided by qualified nonprofit agency for individuals
3 with disabilities; creating new provisions; amending ORS 279.850; and
4 prescribing an effective date.

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

6 **SECTION 1.** ORS 279.850 is amended to read:

7 279.850. (1)(a) Except as provided in [*paragraph (b) of this subsection*]
8 **subsection (2) of this section** and subject to [*paragraph (c) of this sub-*
9 *section*] **subsection (3) of this section**, a public agency that intends to
10 procure a product or service on the procurement list that the Oregon De-
11 partment of Administrative Services established under ORS 279.845 shall, in
12 accordance with the department's rules, procure the product or service at the
13 price the department establishes from a qualified nonprofit agency for indi-

1 individuals with disabilities, provided that the product or service is of the ap-
2 propriate specifications and is available within the period the public agency
3 requires.

4 **(b) A public agency that under paragraph (a) of this subsection**
5 **must procure cleaning services or security services from a qualified**
6 **nonprofit agency for individuals with disabilities may:**

7 **(A) Establish detailed, commercially reasonable specifications for**
8 **the cleaning services or security services;**

9 **(B) Inspect and evaluate the quality of the cleaning services or se-**
10 **curity services that the qualified nonprofit agency for individuals with**
11 **disabilities provides; and**

12 **(C) Terminate for cause any agreement for cleaning services or se-**
13 **curity services the public agency has with the qualified nonprofit**
14 **agency for individuals with disabilities if the cleaning services or se-**
15 **curity services do not meet all of the public agency's specifications.**
16 **The public agency shall give the qualified nonprofit agency for indi-**
17 **viduals with disabilities not less than 30 days' notice of a termination**
18 **and may provide an opportunity to cure deficiencies in performance.**

19 **(c) Except as provided in subsection (2)(a) of this section, a public**
20 **agency that terminates a contract with a qualified nonprofit agency**
21 **for individuals with disabilities under paragraph (b)(C) of this sub-**
22 **section shall enter into an agreement with another qualified nonprofit**
23 **agency for individuals with disabilities to perform the cleaning ser-**
24 **vices or security services the public agency requires. The public**
25 **agency shall apply the same specifications and shall inspect and eval-**
26 **uate the cleaning services or security services the new qualified**
27 **nonprofit agency for individuals with disabilities provides using the**
28 **same standards that applied under the agreement that the public**
29 **agency terminated.**

30 **(d) Rules the department adopts and the procurement list and**
31 **prices that the department establishes under ORS 279.845 and para-**

1 **graph (a) of this subsection must allow for and take account of spec-**
2 **ifications that public agencies establish under paragraph (b) of this**
3 **subsection.**

4 [(b)] (2) A public agency may procure a product or service that is on the
5 procurement list described in [*paragraph (a) of this*] subsection (1)(a) of this
6 **section** from a person other than a qualified nonprofit agency for individuals
7 with disabilities if:

8 [(A)] (a) All of the qualified nonprofit agencies for individuals with dis-
9 abilities on the procurement list that applies to the public agency have a
10 record in the previous three years of repeatedly violating, or are not now in
11 compliance with, applicable local ordinances or resolutions that govern labor
12 standards **or, if the public agency is procuring cleaning services or se-**
13 **curity services, all qualified nonprofit agencies for individuals with**
14 **disabilities cannot provide, as appropriate, cleaning services or secu-**
15 **urity services that meet all of the specifications that the public agency**
16 **establishes under subsection (1)(b) of this section; and**

17 [(B)] (b) The person, for a period of 90 days after the person enters into
18 an agreement with the public agency, offers to employ the employees of a
19 qualified nonprofit agency for individuals with disabilities from which the
20 public agency would have procured the product or service but for the failure
21 of the qualified nonprofit agency for individuals with disabilities to comply
22 with an applicable local ordinance or resolution that governs labor stan-
23 dards.

24 [(c)] (3) If a public agency [*may choose*] **chooses** to procure a product or
25 service from more than one qualified nonprofit agency for individuals with
26 disabilities, the public agency may give a preference to the qualified
27 nonprofit agency for individuals with disabilities that best demonstrates that
28 the qualified nonprofit agency for individuals with disabilities:

29 [(A)] (a) Complies with all applicable local ordinances and resolutions
30 that govern labor standards; and

31 [(B)] (b) Provides wages, health care benefits, alternative dispute resol-

1 ution services and pension or other retirement arrangements that, in the
2 aggregate, are better than the average package of wages, health care bene-
3 fits, alternative dispute resolution services and pension or other retirement
4 arrangements that private employers provide to employees that perform the
5 same or similar job duties:

6 [(i)] **(A)** In the same industry in which the qualified nonprofit agency for
7 individuals with disabilities engages; and

8 [(ii)] **(B)** In the county in which the qualified nonprofit agency for indi-
9 viduals with disabilities will deliver the product or perform the service.

10 [(2)(a)] **(4)(a)** A public agency may require in any agreement with a
11 qualified nonprofit agency for individuals with disabilities under ORS 279.835
12 to 279.855 that the qualified nonprofit agency for individuals with disabilities
13 comply with applicable local ordinances or resolutions that govern labor
14 standards.

15 (b) A public agency may disqualify a qualified nonprofit agency for indi-
16 viduals with disabilities from entering into an agreement with the public
17 agency under ORS 279.835 to 279.855 for a period of three years if the public
18 agency:

19 (A) Determines that the qualified nonprofit agency for individuals with
20 disabilities repeatedly violated local ordinances or resolutions that govern
21 labor standards during the term of an agreement with the public agency
22 under ORS 279.835 to 279.855; or

23 (B) Finds that the qualified nonprofit agency for individuals with disa-
24 bilities has a record in the previous three years of repeatedly violating ap-
25 plicable local ordinances or resolutions that govern labor standards.

26 [(3)] **(5)** In furthering the purposes of ORS 279.835 to 279.855, 279A.025 (4)
27 and 279C.335, the Legislative Assembly intends that the department, public
28 agencies and qualified nonprofit agencies for individuals with disabilities
29 cooperate closely. The department on behalf of public agencies and qualified
30 nonprofit agencies for individuals with disabilities may enter into contrac-
31 tual agreements, cooperative working relationships or other arrangements

1 that are necessary to effectively coordinate and efficiently realize the objec-
2 tives of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 and any other law
3 that governs a procurement of products or services.

4 **SECTION 2. The amendments to ORS 279.850 by section 1 of this**
5 **2023 Act apply to agreements that a public agency enters into with a**
6 **qualified nonprofit agency for individuals with disabilities on or after**
7 **the operative date specified in section 3 of this 2023 Act.**

8 **SECTION 3. (1) The amendments to ORS 279.850 by section 1 of this**
9 **2023 Act become operative on January 1, 2023.**

10 **(2) The Director of the Oregon Department of Administrative Ser-**
11 **vices may adopt rules and take any other action before the operative**
12 **date specified in subsection (1) of this section that is necessary to en-**
13 **able the director, on and after the operative date specified in sub-**
14 **section (1) of this section, to undertake and exercise all of the duties,**
15 **functions and powers conferred on the director by the amendments to**
16 **ORS 279.850 by section 1 of this 2023 Act.**

17 **SECTION 4. This 2023 Act takes effect on the 91st day after the date**
18 **on which the 2023 regular session of the Eighty-second Legislative**
19 **Assembly adjourns sine die.**

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