

**SB 1047 STAFF MEASURE SUMMARY****Carrier:** Rep. Grayber**House Committee On Business and Labor****Action Date:** 05/03/23**Action:** Do Pass.**Vote:** 8-3-0-0**Yeas:** 8 - Elmer, Grayber, Holvey, Hudson, Nelson, Nosse, Owens, Sosa**Nays:** 3 - Boshart Davis, Osborne, Scharf**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Erin Seiler, LPRO Analyst**Meeting Dates:** 4/26, 5/3**WHAT THE MEASURE DOES:**

Raises contract price threshold under which contracting agency may apply specified solicitation and procurement methods for public contracts. Increases small procurement dollar threshold from \$10,000 to \$25,000 and intermediate procurement dollar threshold from \$150,000 to \$250,000. Requires state contracting agency that awards public contract under specified method with price of at least \$10,000 to document in state contracting agency's procurement file actions taken to provide notice of procurement to Governor's Policy Advisor for Economic and Business Equity and to invite or consider for participation in procurement businesses or enterprises that Certification Office for Business Inclusion and Diversity (COBID) certifies. Requires Oregon Department of Administrative Services (DAS) to promote and apply a policy of diversity, equity, and inclusion in public contracting by attempting to increase public contracting opportunities for businesses and enterprises that are certified by the COBID. Specifies actions DAS must take and requires DAS to report every six months to the Governor's Policy Advisor for Economic and Business Equity on implementation efforts. Applies to procurements that contracting agency advertises or solicits or, if there is no advertisement or solicitation, public contracts that a contracting agency enters into on or after operative date. Operative January 1, 2024. Takes effect on 91st day following adjournment sine die.

**ISSUES DISCUSSED:**

- Improves access and efficiency in procurement and state contracting
- Increases participation in procurement process, particularly by small or new businesses
- Number of businesses that have applied to be certified by Certification Office for Business Inclusion and Diversity (COBID)
- Intentionality of language related to promotion and application of policy of diversity, equity, and inclusion in public contracting
- Goal of opening door to more businesses to participate, but does not change considerations for awarding state contract once in door
- Measures does not create preference; process must be fair in access and fair in application
- Barriers to participation in public contracting process
- Ability of Department of Administrative Services to complete disparity study and act on recommendations

**EFFECT OF AMENDMENT:**

No amendment.

**BACKGROUND:**

Public contracting is governed by the Public Contracting Code (Code) contained in ORS chapters 279A, 279B, and 279C. Chapter 279A contains general provisions applicable to the Code, chapter 279B contains laws overseeing public procurement contracts, and chapter 279C governs public improvement and related contracts. The judicial

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and legislative department are exempted from the Code. Generally, a contracting agency awards contracts to the lowest bidder or best proposer. However, the Code contains provisions allowing contracting agencies to give preference in certain circumstances. Additionally, the Code allows for different procurement methods depending on the anticipated dollar value of the contract: small procurement (currently under \$10,000) allows for a noncompetitive bid contract to be issued to permit an agency to quickly secure goods and services they need; intermediate procurement (currently \$10,000–\$150,000) requires, at minimum, an agency post public notice for seven-days, take steps to include small and diverse firms, and permits agency to secure goods and services within 30 days; and sealed competitive procurement (over \$150,000) requires a rigorous process of formal solicitation documents including Department of Justice review, 30-day public posting, formal process steps and evaluations, and contract negotiation. A sealed competitive process can take four to six months.

The Certification Office for Business Inclusion and Diversity (COBID) is the sole certification authority for Oregon. Certification provides businesses with the opportunity to compete for targeted government contracting opportunities. There are several types of certifications: federally funded transportation-related projects and opportunities funded with state dollars, such as the Minority Business Enterprise Program or the Emerging Small Business Program.

Senate Bill 1047 raises the contract price threshold under which contracting agencies may apply certain solicitation and procurement methods for public contracts and requires DAS to promote a policy of diversity, equity, and inclusion in public contracting. The measure increases small procurement dollar threshold from \$10,000 to \$25,000 and intermediate procurement dollar threshold from to \$150,000 to \$250,000, resulting in more contracts being small and intermediate procurements, which are simpler and faster for firms to navigate.