

House Bill 2295

Sponsored by Representative LEWIS (at the request of Lacey Beaty) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Broadens public contracting preference for businesses that service-disabled veterans own to include all veteran-owned businesses. Defines "veteran" and "veteran-owned business."

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to veteran-owned businesses; creating new provisions; amending ORS 184.404, 200.005,
3 200.025, 200.045, 200.055, 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.107, 279A.110,
4 279C.110, 279C.537, 279C.836, 285B.740, 285B.764, 286A.615, 293.796, 353.130, 431A.400, 468A.805
5 and 470.560; and prescribing an effective date.

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

7 **SECTION 1.** ORS 184.404 is amended to read:

8 184.404. (1) The Director of the Oregon Department of Administrative Services, with the ap-
9 proval of the State Treasurer, may enter into one or more agreements on behalf of the State of
10 Oregon to grant the incremental baseball tax revenues for a period of not more than 30 years. The
11 grant agreements must:

12 (a) Provide that the granted amounts may be used only to pay for the costs of financing, devel-
13 oping, constructing and furnishing a major league stadium;

14 (b) Provide that:

15 (A) The total payments to the grantees are limited so that the grantees do not receive, in the
16 aggregate, more than \$150 million for costs of developing, constructing and furnishing a major
17 league stadium, plus the actual, reasonable financing costs incurred by the grantees for that amount;
18 and

19 (B) If the incremental baseball tax revenues in a year substantially exceed the amount reason-
20 ably required to amortize a loan of \$150 million over a period of 30 years with interest, the excess
21 may be retained by the state;

22 (c) Terminate when:

23 (A) The State of Oregon has made all payments assigned to the state in the grant agreements
24 for the costs allowed under this subsection; and

25 (B) The grantees have returned any amounts required to be returned under paragraph (i) of this
26 subsection;

27 (d) Require the Director of the Department of Revenue to estimate incremental baseball tax re-
28 venues, specify the methodology for estimating incremental baseball tax revenues and notify the
29 Director of the Oregon Department of Administrative Services of the estimated incremental baseball
30 tax revenues;

31 (e) Specify the methodology for determining actual incremental baseball tax revenues;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (f) Require the Director of the Oregon Department of Administrative Services to request that
2 the Legislative Assembly appropriate an amount equal to the estimated incremental baseball tax
3 revenues from the General Fund to the Major League Stadium Grant Fund established in ORS
4 184.408 so that those moneys may be disbursed under the grant agreements authorized by this sec-
5 tion;

6 (g) Require the Director of the Department of Revenue to determine the actual incremental
7 baseball tax revenues and, if the actual incremental baseball tax revenues exceed the estimated in-
8 cremental baseball tax revenues, notify the Director of the Oregon Department of Administrative
9 Services of the excess;

10 (h) Require the Director of the Oregon Department of Administrative Services, if notified of an
11 excess under paragraph (g) of this subsection, to request that the Legislative Assembly appropriate
12 an amount equal to the excess, adjusted for the limits and retentions described in paragraph (b) of
13 this subsection, from the General Fund to the Major League Stadium Grant Fund so that those
14 moneys may be disbursed under the grant agreements authorized by this section;

15 (i) Require the grantees to return to the Director of the Oregon Department of Administrative
16 Services for deposit in the General Fund amounts transferred to the grantees from the Major League
17 Stadium Grant Fund that exceed the actual incremental baseball tax revenues;

18 (j) Provide that the amounts requested for appropriations may not be reduced because of any
19 reduction that may be enacted in Oregon personal income tax rates;

20 (k) Require the Director of the Oregon Department of Administrative Services to disburse
21 amounts in the Major League Stadium Grant Fund to the grantees on particular dates;

22 (L) Provide assurances of full and fair participation in the construction, furnishing and operation
23 of the major league stadium by minority-owned businesses, woman-owned businesses, **veteran-owned**
24 businesses [*that service-disabled veterans own*] and emerging small businesses;

25 (m) Provide for the maximization of economic benefits for Oregon workers in the construction,
26 furnishing and operation of the major league stadium to the greatest extent permitted by law; and

27 (n) Require the State of Oregon and the grantees to take any other action that the State
28 Treasurer, the Director of the Oregon Department of Administrative Services or the Director of the
29 Department of Revenue determines is desirable to ensure that:

30 (A) The granted funds are used for the purposes described in ORS 184.400 to 184.408;

31 (B) The grant agreements are administered efficiently and the interests of the State of Oregon
32 are protected; and

33 (C) The requests for appropriation of amounts equal to the incremental baseball tax revenues
34 are made as described in ORS 184.400 to 184.408.

35 (2) The obligation of the State of Oregon, under ORS 184.400 to 184.408 and the grant agree-
36 ments authorized by this section, to transfer estimated or actual incremental baseball tax revenues
37 to the Major League Stadium Grant Fund is subject to an appropriation being made for that purpose
38 by the Legislative Assembly. The State of Oregon is not liable to any party for any reason if the
39 Legislative Assembly fails to appropriate all or a portion of the amounts requested under subsection
40 (1)(f) and (h) of this section to the Major League Stadium Grant Fund. However, if the Legislative
41 Assembly does appropriate amounts for deposit in the Major League Stadium Grant Fund and those
42 amounts are deposited in the Major League Stadium Grant Fund pursuant to the grant agreements
43 authorized by this section, the obligation of the State of Oregon to disburse the amounts in the
44 Major League Stadium Grant Fund is unconditional. The grant agreements authorized by this sec-
45 tion are not a pledge of the full faith and credit or the taxing power of the State of Oregon, and the

1 State of Oregon does not pledge its full faith and credit or taxing power. The grant agreements do
2 not create an indebtedness of the State of Oregon in violation of Article XI, section 7, of the Oregon
3 Constitution. If a provision of a grant agreement is construed to have the effect of creating a debt
4 in violation of Article XI, section 7, of the Oregon Constitution, the provision is void.

5 (3) The Legislative Assembly does not have a legal obligation to appropriate any amounts for
6 disbursement under the grant agreements authorized by this section. However, the Legislative As-
7 sembly declares its current intention to appropriate amounts equal to the estimated incremental
8 baseball tax revenues and amounts equal to the amount by which the actual incremental baseball
9 tax revenues exceed the estimated incremental baseball tax revenues from the General Fund to the
10 Major League Stadium Grant Fund, as provided in ORS 184.400 to 184.408, so that the amounts may
11 be disbursed pursuant to the grant agreements authorized by this section.

12 (4) Before commencing negotiations on a grant agreement authorized by this section, the Oregon
13 Department of Administrative Services shall obtain one or more agreements from benefited parties
14 to pay the state's costs associated with negotiating and executing the grant agreement.

15 **SECTION 2.** ORS 200.005 is amended to read:

16 200.005. As used in ORS 200.005 to 200.075, 200.110, 200.120, 200.160 to 200.200 and 279A.105:

17 (1) "Contracting agency" has the meaning given that term in ORS 279A.010.

18 (2) "Contractor" means a person that agrees to legally enforceable terms and conditions under
19 which the person performs services or supplies materials in accordance with a contracting agency's
20 specifications and for the purpose of accomplishing results the contracting agency intends, while
21 retaining control of the means, methods and manner of performing the services or supplying the
22 materials.

23 (3) "Disadvantaged business enterprise" means a small business concern:

24 (a) At least 51 percent of which one or more socially and economically disadvantaged individuals
25 own; or

26 (b) At least 51 percent of the stock of which, if the small business concern is a corporation, is
27 owned by one or more economically disadvantaged individuals who also control and manage the
28 daily business operations of the small business concern.

29 (4) "Economically disadvantaged individual" means a socially disadvantaged individual for whom
30 diminished capital and credit opportunities have impaired the individual's ability to compete in the
31 free enterprise system as compared to other individuals in the same business area who are not so-
32 cially disadvantaged individuals.

33 (5) "Emerging small business" means an independent business concern that:

34 (a) Has a principal place of business located in this state;

35 (b) Qualifies as a tier one firm or a tier two firm;

36 (c) Is properly licensed and legally registered in this state; and

37 (d) Is not a subsidiary or parent company that belongs to a group of firms that the same indi-
38 viduals own or control if, in the aggregate, the group of firms does not qualify as a tier one firm
39 or a tier two firm.

40 (6) "Minority individual" means an individual who is a citizen or lawful permanent resident of
41 the United States and is:

42 (a) African American, having origins in any of the original peoples of Africa;

43 (b) Hispanic, having Mexican, Puerto Rican, Cuban, Central or South American or other Spanish
44 culture or origin, regardless of race;

45 (c) Asian American, having origins in any of the original peoples of East Asia, Southeast Asia,

1 the Indian subcontinent or the Pacific Islands;

2 (d) Portuguese, having Portuguese, Brazilian or other Portuguese culture or origin, regardless
3 of race;

4 (e) American Indian or Alaska Native, having origins in any of the original peoples of North
5 America; or

6 (f) Any other individual or member of another group that the Certification Office for Business
7 Inclusion and Diversity determines is socially and economically disadvantaged.

8 (7) “Minority-owned business,” “woman-owned business” or [*“business that a service-disabled
9 veteran owns”*] **“veteran-owned business”** means, as appropriate, a small business concern:

10 (a) At least 51 percent of which one or more minority individuals, women or [*service-disabled*]
11 veterans own and control; or

12 (b) At least 51 percent of the stock of which, if the small business concern is a corporation, is
13 owned by one or more minority individuals, women or [*service-disabled*] veterans who also control
14 and manage the daily business operations of the small business concern.

15 (8) “Responsible bidder or proposer” means a bidder or proposer that the Governor’s Policy
16 Advisor for Economic and Business Equity determines has undertaken both a policy and practice
17 of actively pursuing participation by minority-owned businesses, woman-owned businesses, **veteran-
18 owned** businesses [*that service-disabled veterans own*] or emerging small businesses in all of the
19 bidder’s or proposer’s bids or proposals, both public and private.

20 [(9) *“Service-disabled veteran” means a veteran who has a United States Department of Veterans
21 Affairs disability rating of at least zero percent as a result of an injury or illness that the veteran in-
22 curred, or that was aggravated, during active military service and who received a discharge or release
23 under other than dishonorable conditions.*]

24 [(10)] (9) “Small business concern” means a small business, as defined by the United States Small
25 Business Administration in 13 C.F.R. part 121, as in effect on January 1, 2016.

26 [(11)] (10) “Socially disadvantaged individual” means an individual who has been subjected to
27 racial or ethnic prejudice or cultural bias, without regard to individual qualities, because of the
28 individual’s identity as a member of a group.

29 [(12)] (11) “State contracting agency” has the meaning given that term in ORS 279A.010.

30 [(13)] (12) “Subcontractor” means a contractor that does not have a direct contractual re-
31 lationship with a contracting agency.

32 [(14)] (13) “Tier one firm” means a business that employs not more than 19 full-time equivalent
33 employees and has average annual gross receipts for the last three years that do not exceed an
34 amount that the Oregon Business Development Department specifies by rule.

35 [(15)] (14) “Tier two firm” means a business that employs not more than 29 full-time equivalent
36 employees and has average annual gross receipts for the last three years that do not exceed an
37 amount that the Oregon Business Development Department specifies by rule.

38 (15)(a) **“Veteran” means an individual who:**

39 **(A) Served on active duty with the Armed Forces of the United States:**

40 **(i) For a period of more than 90 consecutive days beginning on or before January 31, 1955,
41 and was discharged or released under honorable conditions;**

42 **(ii) For a period of more than 178 consecutive days beginning after January 31, 1955, and
43 was discharged or released from active duty under honorable conditions;**

44 **(iii) For 178 days or less and was discharged or released from active duty under honorable
45 conditions because of a service-connected disability;**

1 (iv) For 178 days or less and was discharged or released from active duty under honorable
 2 conditions and has a disability rating from the United States Department of Veterans Af-
 3 fairs; or

4 (v) For at least one day in a combat zone and was discharged or released from active
 5 duty under honorable conditions;

6 (B) Received a combat or campaign ribbon or an expeditionary medal for service in the
 7 Armed Forces of the United States and was discharged or released from active duty under
 8 honorable conditions;

9 (C) Is receiving a nonservice-connected pension from the United States Department of
 10 Veterans Affairs;

11 (D) Is a disabled veteran, as defined in ORS 408.225; or

12 (E) Has been a reserve officer or member of a National Guard unit for at least five years
 13 before the individual seeks a certification under ORS 200.055.

14 (b) As used in paragraph (a) of this subsection, “active duty” does not include attendance
 15 at a school under military orders, except schooling incident to an active enlistment or a
 16 regular tour of duty, or normal military training as a reserve officer or member of an or-
 17 ganized reserve or a National Guard unit.

18 (16) “Woman” means a person of the female gender who is a citizen or lawful permanent resi-
 19 dent of the United States.

20 **SECTION 3.** ORS 200.025 is amended to read:

21 200.025. (1) The Governor shall appoint a Governor’s Policy Advisor for Economic and Business
 22 Equity within the office of the Governor.

23 (2) The Certification Office for Business Inclusion and Diversity is created within the Oregon
 24 Business Development Department, and the Director of the Oregon Business Development Depart-
 25 ment shall appoint the employees of the office.

26 (3) The Governor’s Policy Advisor for Economic and Business Equity shall:

27 (a) Advise the Governor and the director on activities and initiatives that may promote the
 28 economic integration of minorities, women, [*service-disabled*] veterans and emerging small businesses
 29 into the business sector;

30 (b) Prepare an annual report to the Governor, director and Legislative Assembly on disadvan-
 31 tagged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned**
 32 businesses [*that service-disabled veterans own*] and emerging small businesses that examines:

33 (A) The status of the enterprises and businesses in the marketplace;

34 (B) Accomplishments and resolutions that have occurred with respect to issues that concern the
 35 enterprises and businesses; and

36 (C) Recommendations for executive and legislative action; and

37 (c) Carry out other duties that the Governor may assign.

38 (4) The Certification Office for Business Inclusion and Diversity shall:

39 (a) Provide information to minority-owned businesses, woman-owned businesses, **veteran-owned**
 40 businesses [*that service-disabled veterans own*] and emerging small businesses;

41 (b) Assist in developing and implementing an aggressive strategy for this state, based on re-
 42 search and monitoring, that encourages minorities, women, [*service-disabled*] veterans and emerging
 43 small businesses to participate in the state’s economy;

44 (c) Recommend to the director methods for researching, developing and implementing a plan to
 45 involve minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that*

1 *service-disabled veterans own*] and emerging small businesses in all state programs;

2 (d) Maintain, in consultation with the Department of Transportation, public universities listed
3 in ORS 352.002 and other entities, an Oregon Opportunity Register and Clearinghouse for informa-
4 tion about contracting agency solicitations and other opportunities to submit bids or proposals to
5 contracting agencies to provide goods, supplies and services, including professional services;

6 (e) Monitor the certification and compliance program under ORS 200.055 for:

7 (A) Disadvantaged business enterprises;

8 (B) Minority-owned businesses, woman-owned businesses and **veteran-owned** businesses [*that*
9 *service-disabled veterans own*]; and

10 (C) Emerging small businesses;

11 (f) Investigate complaints and possible abuses of the certification program; and

12 (g) Assist in promoting and coordinating plans, programs and operations of state government
13 that help minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that*
14 *service-disabled veterans own*] and emerging small businesses to participate in the economic life of
15 this state.

16 **SECTION 4.** ORS 200.045 is amended to read:

17 200.045. (1) As used in this section, "required participant" means:

18 (a) A disadvantaged business enterprise;

19 (b) A minority-owned business, a woman-owned business or a **veteran-owned** business [*that a*
20 *service-disabled veteran owns*]; or

21 (c) An emerging small business.

22 (2) If a public contract requires participation from a required participant and a bidder or
23 proposer for the public contract is not a required participant, a contracting agency may award the
24 public contract to the bidder or proposer only if the bidder or proposer:

25 (a) Demonstrates that the bidder or proposer is responsible; and

26 (b) Has made good faith efforts to encourage required participants to participate in the public
27 contract.

28 (3) A contracting agency may rebuttably presume that for the purposes of this section a bidder
29 or proposer is responsible and has made good faith efforts to encourage required participants to
30 participate in the public contract if the bidder or proposer takes all of these actions:

31 (a) Attends presolicitation or prebid meetings that the contracting agency scheduled to inform
32 disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-**
33 **owned** businesses [*that service-disabled veterans own*] and emerging small businesses of contracting
34 and subcontracting or material supply opportunities available in connection with a public contract;

35 (b) Identifies and selects specific economically feasible units of the public contract that disad-
36 vantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned**
37 businesses [*that service-disabled veterans own*] and emerging small businesses may perform in order
38 to increase the likelihood that required participants will participate in the public contract;

39 (c) Advertises the opportunities described in paragraphs (a) and (b) of this subsection in general
40 circulation publications, trade association publications and publications that serve an audience or
41 readership that consists primarily of minorities, women, [*service-disabled*] veterans and emerging
42 small businesses;

43 (d) Provides written notice of the opportunities described in paragraphs (a) and (b) of this sub-
44 section to a reasonable number of specific disadvantaged business enterprises, minority-owned busi-
45 nesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and

1 emerging small businesses that the bidder or proposer identified from a list of enterprises or busi-
 2 nesses that the Certification Office for Business Inclusion and Diversity certified under ORS 200.055,
 3 in sufficient time to allow the enterprises or businesses to participate effectively;

4 (e) Follows up on the bidder's or proposer's initial solicitations of interest by contacting the
 5 enterprises or businesses to which the bidder or proposer provided notice under paragraph (d) of this
 6 subsection to determine with certainty whether the enterprises or businesses are interested in the
 7 opportunities described in paragraphs (a) and (b) of this subsection;

8 (f) Provides interested disadvantaged business enterprises, minority-owned businesses, woman-
 9 owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small
 10 businesses with adequate information about plans, specifications and requirements for subcontract-
 11 ing or material supply work in connection with the public contract;

12 (g) Negotiates in good faith with interested disadvantaged business enterprises, minority-owned
 13 businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*]
 14 and emerging small businesses, and did not without justifiable reason reject as unsatisfactory bids
 15 or proposals that the enterprises or businesses prepared;

16 (h) Advises and assists interested disadvantaged business enterprises, minority-owned businesses,
 17 woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerg-
 18 ing small businesses to obtain, when necessary, bonding, lines of credit or insurance that the con-
 19 tracting agency or contractor requires;

20 (i) Makes efforts to encourage disadvantaged business enterprises, minority-owned businesses,
 21 woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerg-
 22 ing small businesses to participate in the public contract that the contracting agency may reason-
 23 ably expect will produce a level of participation that meets the contracting agency's goals or
 24 requirements; and

25 (j) Uses the services of minority community organizations, minority contractor groups, local,
 26 state and federal minority business assistance offices and other organizations that the Governor's
 27 Policy Advisor for Economic and Business Equity identifies as providing assistance in recruiting
 28 disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-**
 29 **owned** businesses [*that service-disabled veterans own*] and emerging small businesses for partic-
 30 ipation in public contracts.

31 (4) A contracting agency may rebuttably presume that for the purposes of this section a bidder
 32 or proposer is not responsible and has not made good faith efforts to encourage required partic-
 33 ipants to participate in a public contract if the bidder or proposer does not take all of the actions
 34 required under subsection (3) of this section. Superficial or pro forma efforts do not demonstrate
 35 responsibility or constitute adequate good faith efforts under this section.

36 **SECTION 5.** ORS 200.055 is amended to read:

37 200.055. (1)(a) An enterprise or business may apply to the Certification Office for Business
 38 Inclusion and Diversity for certification as:

39 (A) A disadvantaged business enterprise;

40 (B) A minority-owned business;

41 (C) A woman-owned business;

42 (D) A **veteran-owned** business [*that a service-disabled veteran owns*]; or

43 (E) An emerging small business.

44 (b) An enterprise or business shall submit a separate application for each category of certifica-
 45 tion the enterprise or business seeks under paragraph (a) of this subsection.

1 (c) If an enterprise or business qualifies under ORS 200.005 to 200.075 and if the office approves
 2 an application from the enterprise or business, the office shall certify the enterprise or business
 3 under one or more of the categories described in paragraph (a) of this subsection.

4 (d) For purposes of awarding a public contract, a contracting agency shall recognize an enter-
 5 prise or business with a certification from the office as the category of enterprise or business de-
 6 scribed in the certification and as having met the requirements set forth in ORS 200.005 to 200.075.
 7 For purposes of awarding a subcontract in connection with a public contract, a contractor may
 8 recognize a subcontractor with a certification from the office as the category of enterprise or busi-
 9 ness described in the certification and as having met the requirements set forth in ORS 200.005 to
 10 200.075.

11 (2) In consultation with public universities listed in ORS 352.002 and the Department of Trans-
 12 portation, and with the approval of the Governor’s Policy Advisor for Economic and Business Eq-
 13 uity, the Oregon Business Development Department by rule shall adopt a uniform standard form and
 14 procedure to provide complete documentation of an enterprise’s or a business’ status as a disad-
 15 vantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned**
 16 business [*that a service-disabled veteran owns*] or an emerging small business. The department shall
 17 compile and make available a list of enterprises and businesses that the Certification Office for
 18 Business Inclusion and Diversity certifies under this section.

19 (3) If the Certification Office for Business Inclusion and Diversity denies a certification as, or
 20 decertifies, a disadvantaged business enterprise, an affected business enterprise may appeal directly
 21 to the United States Department of Transportation.

22 (4) If the Certification Office for Business Inclusion and Diversity denies, revokes or refuses to
 23 renew a business’s certification as a minority-owned business, a woman-owned business, a **veteran-**
 24 **owned** business [*that a service-disabled veteran owns*] or an emerging small business, the business
 25 may request a contested case hearing as provided in ORS chapter 183.

26 (5) The Oregon Business Development Department, through the Certification Office for Business
 27 Inclusion and Diversity, is the sole agency that may certify enterprises and businesses as disadvan-
 28 taged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned**
 29 businesses [*that service-disabled veterans own*] and emerging small businesses that are eligible to
 30 perform public contracts in this state.

31 (6) The Oregon Business Development Department by rule may establish a fee not to exceed
 32 \$100 for a copy of the list described in subsection (2) of this section and may assess contracting
 33 agencies for services under ORS 200.005 to 200.075.

34 (7) The Department of Transportation may collect a fee, not to exceed \$200, from a bidder or
 35 proposer at the time the bidder or proposer prequalifies to perform public contracts to cover the
 36 costs of the Oregon Business Development Department in administering ORS 200.005 to 200.075. The
 37 Department of Transportation shall transfer fees that the Department of Transportation collects
 38 under this subsection to the credit of the account established under subsection (8) of this section.

39 (8) The Oregon Business Development Department shall establish a special account in which to
 40 deposit fees and assessments. The special account is continuously appropriated to the Oregon Busi-
 41 ness Development Department to meet the Oregon Business Development Department’s expenses in
 42 administering ORS 200.005 to 200.075.

43 **SECTION 6.** ORS 200.065 is amended to read:

44 200.065. (1) A person may not fraudulently obtain or retain, attempt to fraudulently obtain or
 45 retain or aid another person in fraudulently obtaining or retaining or attempting to fraudulently

1 obtain or retain certification as a disadvantaged business enterprise, a minority-owned business, a
 2 woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an
 3 emerging small business.

4 (2) A person may not knowingly make a false claim that any person is qualified for certification
 5 or is certified under ORS 200.055 for the purpose of obtaining a public contract or subcontract or
 6 other benefit.

7 (3) An affected contracting agency may withhold payment, may suspend or terminate a public
 8 contract and may impose on any person a civil penalty that does not exceed 10 percent of the con-
 9 tract or subcontract price or \$5,000, whichever is less, for each violation of subsection (1) or (2) of
 10 this section. The person shall pay the penalty to the affected contracting agency. If the affected
 11 contracting agency does not impose a civil penalty on the person under this subsection, the Oregon
 12 Business Development Department may independently impose a civil penalty that does not exceed
 13 \$5,000 for each violation of subsection (1) or (2) of this section. The person shall pay a penalty that
 14 the department imposes to the Certification Office for Business Inclusion and Diversity.

15 (4) The department or an affected contracting agency shall investigate violations of subsection
 16 (1) or (2) of this section. In investigating a violation, the department or an affected contracting
 17 agency may require any additional information, administer oaths, take depositions and issue
 18 subpoenas to compel witnesses to attend and compel the production of books, papers, records,
 19 memoranda or other information necessary to carry out the department's or the affected contracting
 20 agency's duties. If a person fails to comply with any subpoena that the department or the affected
 21 contracting agency issued under this subsection or refuses to testify on any matter on which a
 22 person may lawfully be interrogated, the department or the affected contracting agency shall follow
 23 the procedure provided in ORS 183.440 to compel compliance.

24 (5) The department or an affected contracting agency may disqualify from submitting a bid or
 25 proposal or receiving an award of a public contract, for a period of not more than three years, any
 26 person that under oath during the course of an investigation admits to violating subsection (1) or
 27 (2) of this section or that the department or the affected contracting agency finds to have violated
 28 subsection (1) or (2) of this section. Any contracting agency that has notice of the finding of the
 29 fraudulent certification may also disqualify the person from bidding on or participating in any public
 30 contract.

31 **SECTION 7.** ORS 200.075 is amended to read:

32 200.075. (1) An affected contracting agency shall suspend any bidder's, proposer's, contractor's
 33 or subcontractor's right to submit a bid or proposal for, or receive an award of, a public contract
 34 in the future if the bidder, proposer, contractor or subcontractor knowingly commits any of the acts
 35 listed in this subsection. The affected contracting agency shall suspend the right only after providing
 36 notice and opportunity for hearing in a manner that the affected contracting agency provides by
 37 rule. The affected contracting agency shall specify a time for the suspension that is up to one year
 38 for a first violation, up to three years for a second violation and up to five years for a third vio-
 39 lation. Each violation must remain on record for five years. After five years the affected contracting
 40 agency may not consider the violation in reviewing future violations. A bidder, proposer, contractor
 41 or subcontractor may not:

42 (a) Enter into any agreement to represent that a disadvantaged business enterprise, a minority-
 43 owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran*
 44 *owns*] or an emerging small business certified under ORS 200.055 will perform work or supply ma-
 45 terials under a public contract without the knowledge and consent of the disadvantaged business

1 enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a*
2 *service-disabled veteran owns*] or emerging small business.

3 (b) Exercise or permit another bidder, proposer, contractor or subcontractor to exercise man-
4 agement and decision making control over the internal operations of a disadvantaged business en-
5 terprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a*
6 *service-disabled veteran owns*] or an emerging small business, other than the bidder's, proposer's,
7 contractor's or subcontractor's own enterprise or business. As used in this paragraph, "internal op-
8 erations" does not include normal scheduling, coordination, execution or performance as a subcon-
9 tractor on a public contract.

10 (c) Use a disadvantaged business enterprise, a minority-owned business, a woman-owned busi-
11 ness, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business
12 to perform a public contract or subcontract or to supply material under a public contract to meet
13 an established goal or requirement if the disadvantaged business enterprise, minority-owned busi-
14 ness, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or
15 emerging small business does not perform a commercially useful function in carrying out responsi-
16 bilities and obligations under the public contract.

17 (d) Fail to perform a commercially useful function in performing a public contract or subcontract
18 or in supplying material to a contractor or subcontractor that is performing a public contract or
19 subcontract if the bidder, proposer, contractor or subcontractor is presented as a certified disad-
20 vantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned**
21 business [*that a service-disabled veteran owns*] or emerging small business to meet an established goal
22 or requirement.

23 (2) The Certification Office for Business Inclusion and Diversity shall revoke an enterprise's or
24 a business's certification under ORS 200.055 as a disadvantaged business enterprise, a minority-
25 owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran*
26 *owns*] or an emerging small business if, after conducting an investigation in a manner similar to the
27 manner provided in ORS 200.065 (4) for investigating a violation of ORS 200.065 (1) or (2), the
28 Oregon Business Development Department finds that the enterprise or business allows or commits
29 any of the acts listed in this subsection. A disadvantaged business enterprise, a minority-owned
30 business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*]
31 or an emerging small business may not:

32 (a) Use the enterprise's or business's name to meet a goal or requirement for disadvantaged
33 business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** busi-
34 nesses [*that service-disabled veterans own*] or emerging small businesses to participate in a public
35 contract or subcontract if the enterprise or business does not in fact intend to or does not actually
36 perform work under the public contract or subcontract or does not intend to or does not purchase
37 and supply material under a public contract or subcontract to supply material.

38 (b) Use personnel of an uncertified enterprise or business to operate, manage or otherwise con-
39 trol the disadvantaged business enterprise, minority-owned business, woman-owned business,
40 **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business.

41 (c) Exhibit a pattern of failing to perform a commercially useful function in performing a public
42 contract or subcontract or supplying material to a contractor or subcontractor on a public contract
43 if the enterprise or business is represented as a disadvantaged business enterprise, a minority-owned
44 business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*]
45 or an emerging small business certified under ORS 200.055 for the purpose of meeting an established

1 goal or requirement.

2 (3)(a) An affected contracting agency shall notify the department if the affected contracting
 3 agency investigates a disadvantaged business enterprise, a minority-owned business, a woman-owned
 4 business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small
 5 business for failing to perform a commercially useful function.

6 (b) The department may conduct an independent investigation of a disadvantaged business en-
 7 terprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a*
 8 *service-disabled veteran owns*] or an emerging small business for exhibiting a pattern of failing to
 9 perform a commercially useful function in response to notifications from one or more affected con-
 10 tracting agencies under paragraph (a) of this subsection.

11 (4) As used in this section, “commercially useful function”:

12 (a) Means a function or service:

13 (A) That the enterprise or business actually performs;

14 (B) For which a demand exists in the marketplace; and

15 (C) For which the enterprise or business receives payment that is proportionate to the work that
 16 the enterprise or business performs or that conforms with industry standards.

17 (b) Does not include acting as a broker to provide for others to perform work.

18 **SECTION 8.** ORS 200.090 is amended to read:

19 200.090. Contracting agencies shall aggressively pursue a policy of providing opportunities for
 20 disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-**
 21 **owned** businesses [*that service-disabled veterans own*] and emerging small businesses and shall co-
 22 operate with the Governor’s Policy Advisor for Economic and Business Equity to determine the best
 23 means by which to make such opportunities available.

24 **SECTION 9.** ORS 200.110 is amended to read:

25 200.110. (1) The Oregon Business Development Department may recognize a mentor relationship
 26 between contractors and disadvantaged business enterprises, minority-owned businesses, woman-
 27 owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small
 28 businesses that are certified under ORS 200.055. In order to qualify for the department’s recognition,
 29 the mentor relationship must offer the opportunity for the contractor to foster and encourage dis-
 30 advantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-**
 31 **owned** businesses [*that service-disabled veterans own*] and emerging small businesses to expand the
 32 capacity of existing enterprises and businesses and to offer the opportunity for less experienced
 33 enterprises and businesses to gain training and assistance.

34 (2) To have the department recognize the mentor relationship described in subsection (1) of this
 35 section, a disadvantaged business enterprise, a minority-owned business, a woman-owned business,
 36 a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business must
 37 follow guidelines that include, but are not limited to:

38 (a) Meeting the certification requirements of the U.S. Department of Transportation or ORS
 39 200.055. The Certification Office for Business Inclusion and Diversity may approve an application for
 40 certification under ORS 200.055 at the same time the department approves a mentor arrangement.

41 (b) Remaining independent from the contractor and maintaining a minority individual’s, woman’s
 42 or [*service-disabled*] veteran’s actual ownership of the enterprise or business. A minority individual,
 43 woman or [*service-disabled*] veteran who owns the enterprise or business may have other employ-
 44 ment and business interests if the employment or business interests do not conflict with the minority
 45 individual’s, woman’s or [*service-disabled*] veteran’s power to direct the management and policies of

1 the disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-**
 2 **owned** business [*that a service-disabled veteran owns*] or emerging small business and to make day-
 3 to-day and major decisions on matters of management, policy and operations. A contractor may
 4 provide facilities to the enterprise or business if the contractor and the enterprise or business
 5 maintain a separate lease agreement.

6 (c) Complying with 49 C.F.R. 26 as to an individual's or entity's part ownership in a disadvan-
 7 taged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned**
 8 business [*that a service-disabled veteran owns*] or an emerging small business if the individual or
 9 entity is not certified under ORS 200.055. The enterprise or business shall report any property,
 10 equipment, supplies or other services that the enterprise or business buys, rents or receives as a
 11 donation and any investment that an individual or entity makes in the enterprise or business if the
 12 individual or entity is not certified under ORS 200.055. The report must include bills of sale, lease
 13 agreements or similar documents.

14 (3) A mentor relationship may include an arrangement with an independent third party, such
 15 as a bank or accountant, to act as an agent. A third party may receive progress payments for work
 16 that a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a
 17 **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business ac-
 18 complishes, made out jointly to the third party and the enterprise or business, and may make pay-
 19 ments on behalf of the enterprise or business to material suppliers or for federal and state payroll
 20 taxes.

21 (4) Types of assistance that a contractor may provide in a mentor relationship to a disadvan-
 22 taged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned**
 23 business [*that a service-disabled veteran owns*] or an emerging small business include:

- 24 (a) Financial assistance;
- 25 (b) Technical and management assistance;
- 26 (c) Equipment rental and use of personnel; and
- 27 (d) Bonding assistance.

28 **SECTION 10.** ORS 200.120 is amended to read:

29 200.120. (1) The Oregon Business Development Department, in consultation with the Oregon
 30 Association of Minority Entrepreneurs, may approve a written development plan as part of a mentor
 31 relationship. The development plan must:

- 32 (a) Clearly set forth the objectives and roles of the parties;
- 33 (b) Be for a specified length of time;
- 34 (c) Determine measurable goals that the disadvantaged business enterprise, minority-owned
 35 business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or
 36 emerging small business must reach; and

37 (d) Provide that if a disadvantaged business enterprise, a minority-owned business, a woman-
 38 owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging
 39 small business uses a mentor's resources in performing contracts or subcontracts for the mentor or
 40 for another contractor, the enterprise or business shall separately identify, account for and directly
 41 compensate the mentor for the resources. The department may closely monitor a development plan
 42 that provides that the enterprise or business will use the mentor's resources extensively.

43 (2) The development plan may also provide for the mentor to train the disadvantaged business
 44 enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a*
 45 *service-disabled veteran owns,*] or emerging small business. Training may include:

- 1 (a) Business planning;
- 2 (b) Record keeping;
- 3 (c) Technical training;
- 4 (d) Capital formation;
- 5 (e) Loan packaging;
- 6 (f) Financial counseling;
- 7 (g) Bonding; and
- 8 (h) Equipment utilization.

9 (3) The Oregon Business Development Department and the Oregon Association of Minority En-
 10 trepreneurs may review the development plan annually to monitor progress.

11 (4) The development plan must provide that the mentor relationship may be terminated by mu-
 12 tual consent or if:

13 (a) An enterprise or a business no longer qualifies for certification under ORS 200.055 as a dis-
 14 advantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-**
 15 **owned** business [*that a service-disabled veteran owns*] or an emerging small business;

16 (b) Either party has failed or is unable to meet the party's obligations under the development
 17 plan;

18 (c) The disadvantaged business enterprise, minority-owned business, woman-owned business,
 19 **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business is not
 20 progressing or is not likely to progress in accordance with the development plan;

21 (d) The disadvantaged business enterprise, minority-owned business, woman-owned business,
 22 **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business has
 23 reached a satisfactory level of self-sufficiency to compete without resorting to special treatment
 24 provided in the development plan; or

25 (e) The plan or provisions of the plan are contrary to the requirements of federal, state, or local
 26 law or regulation, or otherwise contrary to public policy.

27 (5) The parties to the development plan, the Oregon Business Development Department and the
 28 Oregon Association of Minority Entrepreneurs shall retain copies of the plan.

29 (6) The development plan may provide that either party may dissolve the plan for any reason
 30 by notifying the Oregon Business Development Department and the Oregon Association of Minority
 31 Entrepreneurs.

32 **SECTION 11.** ORS 279A.105 is amended to read:

33 279A.105. (1) A contracting agency may require a contractor to subcontract some part of a
 34 contract to, or to obtain materials for use in performing the contract from, a business that is certi-
 35 fied under ORS 200.055 as an emerging small business or as a **veteran-owned** business [*that a*
 36 *service-disabled veteran owns*].

37 (2) A contracting agency may require a contractor to subcontract some part of a contract to,
 38 or to obtain materials to be used in performing the contract from, a business that is certified under
 39 ORS 200.055 as an emerging small business and that, as identified by the contracting agency, is lo-
 40 cated in or draws the business's workforce from economically distressed areas, as designated by the
 41 Oregon Business Development Department.

42 (3) A contracting agency may require that a public contract be awarded to a responsible bidder
 43 or proposer, as defined in ORS 200.005, that the contracting agency determines has made good faith
 44 efforts as prescribed in ORS 200.045.

45 **SECTION 12.** ORS 279A.107 is amended to read:

1 279A.107. (1) A contracting agency that under ORS 279A.105 awards a public contract to a re-
 2 sponsible bidder, as defined in ORS 200.005, that has made good faith efforts, as described in ORS
 3 200.045 (3), or that awards a public contract in the course of carrying out an affirmative action goal,
 4 policy or program under ORS 279A.100 shall:

5 (a) Provide as a material condition of the public contract that a contractor remain certified as
 6 a disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-**
 7 **owned** business [*that a service-disabled veteran owns*] or emerging small business under ORS 200.055
 8 for the entire term of the public contract, if the contracting agency awarded the public contract, in
 9 whole or in part, on the basis of the contractor's certification.

10 (b) Require a contractor to provide in the contractor's subcontracts that a subcontractor remain
 11 certified as a disadvantaged business enterprise, minority-owned business, woman-owned business,
 12 **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business under ORS
 13 200.055 for the entire term of the subcontract, if the contractor awards the subcontract, in whole
 14 or in part, on the basis of the subcontractor's certification.

15 (c) Verify the contractor's or subcontractor's compliance with the requirements set forth in
 16 paragraphs (a) and (b) of this subsection.

17 (d) Verify that a contractor is paying a subcontractor that is certified under ORS 200.055
 18 promptly as provided in ORS 279B.220 or 279C.570, as appropriate.

19 (2)(a) If a contracting agency determines at any time during the term of a public contract that
 20 a contractor to which the contracting agency awarded the public contract on the basis described in
 21 subsection (1) of this section, or a subcontractor to which the contractor awarded a subcontract in
 22 connection with the public contract on the basis described in subsection (1) of this section, is no
 23 longer certified, the contracting agency may:

- 24 (A) Terminate the public contract;
- 25 (B) Require the contractor to terminate the subcontract; or
- 26 (C) Exercise any of the remedies for breach of contract that are reserved in the public contract.

27 (b) The actions a contracting agency may take under paragraph (a) of this subsection are in
 28 addition to and not in lieu of any other action the Oregon Business Development Department may
 29 take with respect to the contractor or subcontractor under ORS 200.065.

30 (c) Paragraph (a) of this subsection does not apply to an emerging small business as defined in
 31 ORS 200.005 that, because of growth in the number of full-time equivalent employees or average
 32 annual gross receipts that occurs during the term of the public contract, no longer qualifies as a tier
 33 one firm or tier two firm, as those terms are defined in ORS 200.005, or for which a certification
 34 under ORS 200.055 expires during the term of the public contract.

35 **SECTION 13.** ORS 279A.110 is amended to read:

36 279A.110. (1) A bidder or proposer that competes for or is awarded a public contract may not
 37 discriminate against a subcontractor in awarding a subcontract because the subcontractor is a dis-
 38 advantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-**
 39 **owned** business [*that a service-disabled veteran owns*] or an emerging small business that is certified
 40 under ORS 200.055.

41 (2) A contracting agency may debar or disqualify, under ORS 279B.130 or 279C.440, as appro-
 42 priate, a bidder or proposer if the contracting agency finds that the bidder or proposer has violated
 43 subsection (1) of this section in awarding a subcontract in connection with a contract the con-
 44 tracting agency advertised or otherwise solicited or a contract between the contracting agency and
 45 the bidder or proposer. A debarred or disqualified bidder or proposer may appeal the debarment or

1 disqualification under ORS 279B.425 or ORS 279C.445 and 279C.450, as appropriate.

2 (3) A contracting agency may not allege an occurrence of discrimination in subcontracting as
 3 a basis for debarring or disqualifying a bidder or proposer under subsection (2) of this section more
 4 than three years after the alleged discriminatory conduct occurred or more than three years after
 5 the contracting agency, in the exercise of reasonable diligence, should have discovered the conduct,
 6 whichever is later.

7 (4) A bidder or proposer shall certify in the bid or proposal that the bidder or proposer has not
 8 discriminated and will not discriminate, in violation of subsection (1) of this section, against a dis-
 9 advantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-**
 10 **owned** business [*that a service-disabled veteran owns*] or an emerging small business in awarding a
 11 subcontract.

12 (5) If a contracting agency awards a public contract to a contractor and the contractor violates
 13 the contractor's certification under subsection (4) of this section, the contracting agency may regard
 14 the violation as a breach of contract that permits the contracting agency to:

15 (a) Terminate the contract; or

16 (b) Exercise any of the remedies for breach of contract that are reserved in the contract.

17 **SECTION 14.** ORS 279C.110 is amended to read:

18 279C.110. (1) A contracting agency shall select a consultant to provide architectural, engineer-
 19 ing, photogrammetric mapping, transportation planning or land surveying services on the basis of
 20 the consultant's qualifications for the type of professional service required. A contracting agency
 21 may solicit or use pricing policies and proposals or other pricing information, including the number
 22 of hours proposed for the service required, expenses, hourly rates and overhead, to determine con-
 23 sultant compensation only after the contracting agency has selected a consultant.

24 (2) Subject to the requirements of subsection (1) of this section, the procedures that a con-
 25 tracting agency creates to screen prospective consultants and make a selection are at the con-
 26 tracting agency's sole discretion. The contracting agency may adjust the procedures to accommodate
 27 the contracting agency's scope, schedule or objectives for a particular project if the estimated cost
 28 of the architectural, engineering, photogrammetric mapping, transportation planning or land sur-
 29 veying services for the project does not exceed \$250,000.

30 (3) A contracting agency's screening and selection procedures under this section, regardless of
 31 the estimated cost of the architectural, engineering, photogrammetric mapping, transportation plan-
 32 ning or land surveying services for a project, may include considering each prospective consultant's:

33 (a) Specialized experience, capabilities and technical competence, which the prospective con-
 34 sultant may demonstrate with the prospective consultant's proposed approach and methodology to
 35 meet the project requirements;

36 (b) Resources committed to perform the services and the proportion of the time that the pro-
 37 spective consultant's staff would spend to perform services for the contracting agency, including
 38 time for specialized services, within the applicable time limits;

39 (c) Record of past performance, including but not limited to price and cost data from previous
 40 projects, quality of work, ability to meet schedules, cost control and contract administration;

41 (d) Ownership status and employment practices regarding disadvantaged business enterprises,
 42 minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-*
 43 *disabled veterans own*], emerging small businesses or historically underutilized businesses;

44 (e) Availability to the project locale;

45 (f) Familiarity with the project locale; and

1 (g) Proposed project management techniques.

2 (4) If the screening and selection procedures a contracting agency follows under this section or
 3 creates under subsection (2) of this section result in the contracting agency's determination that two
 4 or more prospective consultants are equally qualified, the contracting agency may use any process
 5 to select a consultant that is not based on the prospective consultant's pricing policies, proposals
 6 or other pricing information.

7 (5) Notwithstanding the requirement in subsection (1) of this section that a contracting agency
 8 may not solicit or use pricing policies, proposals or other pricing information until after the con-
 9 tracting agency has selected a consultant, a local contracting agency may use pricing policies, pro-
 10 posals or other pricing information as part of the local contracting agency's screening and selection
 11 of prospective consultants if the local contracting agency:

12 (a) States in solicitation documents for the procurement:

13 (A) That the local contracting agency will screen and select prospective consultants as provided
 14 in this subsection;

15 (B) How the local contracting agency will rank proposals from prospective consultants, with a
 16 specific focus on:

17 (i) Which factors the local contracting agency will consider in evaluating proposals, including
 18 pricing policies, proposals or other pricing information, if the local contracting agency will use
 19 pricing policies, proposals or other pricing information in the evaluation; and

20 (ii) The relative weight the local contracting agency will give each factor, disclosing at a mini-
 21 mum the number of available points for each factor, the percentage each factor comprises in the
 22 total evaluation score and any other weighting criteria the local contracting agency intends to use;

23 (C) An estimate of the cost of professional services the local contracting agency requires for the
 24 procurement; and

25 (D) A scope of work that is sufficiently detailed to enable a prospective consultant to prepare
 26 a responsive proposal.

27 (b) Evaluates each prospective consultant on the basis of the prospective consultant's qualifica-
 28 tions to perform the professional services the local contracting agency requires for the procurement.
 29 The local contracting agency may use the criteria set forth in subsection (3) of this section to con-
 30 duct the evaluation.

31 (c) Announces the evaluation scores and rank for each prospective consultant after completing
 32 the evaluation described in paragraph (b) of this subsection. The local contracting agency may de-
 33 termine that as many as three of the top-ranked prospective consultants are qualified to perform the
 34 professional services the local contracting agency requires for the procurement and may request a
 35 pricing proposal for the scope of work stated in paragraph (a)(D) of this subsection from each of the
 36 top-ranked consultants. The pricing proposal:

37 (A) Must consist of:

38 (i) A schedule of hourly rates that the prospective consultant will charge for the work of each
 39 individual or each labor classification that will perform the professional services the local con-
 40 tracting agency requires for the procurement, in the form of an offer that is irrevocable for not less
 41 than 90 days after the date of the proposal; and

42 (ii) A reasonable estimate of hours that the prospective consultant will require to perform the
 43 professional services the local contracting agency requires for the procurement; and

44 (B) May include, at the local contracting agency's request, additional pricing information that
 45 is limited to:

1 (i) A description of each task that the prospective consultant understands as comprising the
2 professional services;

3 (ii) A list of each individual or labor classification that will perform each task, together with
4 the hourly rate that applies to the individual or labor classification; and

5 (iii) A list of expenses, including travel expenses, that the prospective consultant expects to
6 incur in connection with providing the professional services.

7 (d) Permits a prospective consultant identified as qualified under paragraph (c) of this subsection
8 to withdraw from consideration for the procurement if the prospective consultant does not wish to
9 provide a price proposal.

10 (e) Completes the evaluation and selects a consultant from among the top-ranked prospective
11 consultants that have not withdrawn as provided under paragraph (d) of this subsection, giving not
12 more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal.

13 (6) The contracting agency and the consultant that the contracting agency selects shall mutually
14 discuss, refine and finalize the scope of, the rates and number of hours applicable to, and the maxi-
15 mum compensation level for the professional services and shall negotiate conditions including, but
16 not limited to, a performance schedule for the project. The contracting agency may not pay a com-
17 pensation level that exceeds a level that the contracting agency alone determines is fair and rea-
18 sonable to the contracting agency. Authority to negotiate a contract under this section does not
19 supersede any provision of ORS 279A.140 or 279C.520.

20 (7) If the contracting agency and a consultant that the contracting agency selected are unable
21 for any reason to negotiate a contract at a compensation level that is reasonable and fair to the
22 contracting agency, the contracting agency shall, either orally or in writing, formally terminate
23 negotiations with the selected consultant. The contracting agency may then negotiate with the next
24 most qualified prospective consultant. The contracting agency may continue in this manner through
25 successive prospective consultants until an agreement is reached or the contracting agency termi-
26 nates the selection process.

27 (8) A prospective consultant has a right to protest the contents of a contracting agency's solici-
28 tation documents and the contracting agency's selection of a consultant in accordance with:

29 (a) Protest procedures in model rules the Attorney General adopts under ORS 279A.065; or

30 (b) Protest procedures the contracting agency must set forth in rules that the contracting
31 agency adopts, if the contracting agency adopts rules under ORS 279A.065 (6).

32 (9) A goal of this state is to promote a sustainable economy in the rural areas of this state. In
33 order to monitor progress toward this goal, a state contracting agency shall keep a record of the
34 locations in which architectural, engineering, photogrammetric mapping, transportation planning or
35 land surveying services contracts and related services contracts are performed throughout this
36 state, the locations of the selected consultants and the direct expenses of each contract. This record
37 must include the total number of contracts awarded to each consultant over a 10-year period. The
38 record of direct expenses must include all personnel travel expenses as a separate and identifiable
39 expense of the contract. Upon request, the state contracting agency shall make these records
40 available to the public.

41 (10) Notwithstanding the provisions of subsection (1) of this section, a contracting agency may
42 directly appoint a consultant if the estimated cost of the architectural, engineering, photogrammet-
43 ric mapping, transportation planning or land surveying services for the project does not exceed
44 \$100,000.

45 (11) Notwithstanding the provisions of subsections (1) and (10) of this section, a contracting

1 agency may directly appoint a consultant for architectural, engineering, photogrammetric mapping,
2 transportation planning or land surveying services in an emergency.

3 **SECTION 15.** ORS 279C.537 is amended to read:

4 279C.537. (1) As used in this section, “diesel engine,” “nonroad diesel engine” and “motor vehi-
5 cle” have the meanings given those terms in ORS 468A.795.

6 (2) Except as provided in subsection (4) of this section, a public improvement contract must re-
7 quire at least 80 percent of the total fleet of motor vehicles that are motor vehicles powered by
8 diesel engines and equipment powered by nonroad diesel engines used on site and in the course of
9 performing the contract to be:

10 (a) Motor vehicles powered by model year 2010 or newer diesel engines; and

11 (b) Equipment powered by nonroad diesel engines, whether or not capable of being powered by
12 alternative fuel, that meet or exceed United States Environmental Protection Agency Tier 4 exhaust
13 emission standards for nonroad compression ignition engines.

14 (3) Subsection (2) of this section applies only to a public improvement contract for a public im-
15 provement:

16 (a) With a value of \$20 million or more;

17 (b) For which the contracting agency is a state contracting agency; and

18 (c) If the public improvement is located within Multnomah, Clackamas or Washington County.

19 (4)(a) The Department of Environmental Quality may by order establish minimum standards for
20 contract specifications relating to the use of diesel engines in the course of performing a public
21 improvement contract by a state contracting agency. In establishing standards under this subsection,
22 the department shall take into consideration methods for assisting contractors certified, under ORS
23 200.055, as disadvantaged business enterprises, minority-owned businesses, women-owned businesses,
24 **veteran-owned** businesses [*owned by service-disabled veterans*] or emerging small businesses in
25 complying with the minimum standards for contract specifications.

26 (b) The Director of Transportation, the Director of the Oregon Department of Administrative
27 Services and the Attorney General may adopt rules for contract specifications relating to the use
28 of diesel engines on site and in the course of performing a public improvement contract by a state
29 contracting agency. In adopting rules under this paragraph, the directors and the Attorney General
30 shall consider the minimum standards established by the Department of Environmental Quality un-
31 der paragraph (a) of this subsection.

32 (c) As an alternative to meeting the requirements of subsection (2) of this section, a public im-
33 provement contract subject to subsection (2) of this section may include contract specifications that
34 meet the minimum standards applicable to the public improvement contract under rules adopted
35 pursuant to paragraph (b) of this subsection.

36 **SECTION 16.** ORS 279C.836 is amended to read:

37 279C.836. (1) Except as provided in subsection (4), (7), (8) or (9) of this section, before starting
38 work on a contract or subcontract for a public works project, a contractor or subcontractor shall
39 file with the Construction Contractors Board a public works bond with a corporate surety author-
40 ized to do business in this state in the amount of \$30,000. The bond must provide that the contractor
41 or subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers per-
42 forming labor upon public works projects. The bond must be a continuing obligation, and the
43 surety’s liability for the aggregate of claims that may be payable from the bond may not exceed the
44 penal sum of the bond. The bond must remain in effect continuously until depleted by claims paid
45 under this section, unless the surety sooner cancels the bond. The surety may cancel the bond by

1 giving 30 days' written notice to the contractor or subcontractor, to the board and to the Bureau
2 of Labor and Industries. Canceling the bond relieves the surety of further liability for work per-
3 formed on contracts entered into after the cancellation. The cancellation does not limit the surety's
4 liability for work performed on contracts entered into before the cancellation.

5 (2) Before permitting a subcontractor to start work on a public works project, the contractor
6 shall verify that the subcontractor has filed a public works bond as required under this section, has
7 elected not to file a public works bond under subsection (7) or (8) of this section or is exempt under
8 subsection (4) or (9) of this section.

9 (3) This section does not require a contractor or subcontractor to file a separate public works
10 bond for each public works project for which the contractor or subcontractor has a contract.

11 (4) This section does not require a person that is not required under ORS 279C.800 to 279C.870
12 to pay prevailing rates of wage on a public works project to file a public works bond under this
13 section.

14 (5) A public works bond required by this section is in addition to any other bond the contractor
15 or subcontractor is required to obtain.

16 (6) The board may, by rule, require a contractor or subcontractor to obtain a new public works
17 bond if a surety pays a claim out of an existing public works bond. The new bond must be in the
18 amount of \$30,000. The board may allow a contractor or subcontractor to obtain, instead of a new
19 bond, a certification that the surety remains liable for the full penal sum of the existing bond,
20 notwithstanding payment by the surety on the claim.

21 (7)(a) A disadvantaged business enterprise, a minority-owned business, a woman-owned business,
22 a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business cer-
23 tified under ORS 200.055 may, for up to four years after certification, elect not to file a public works
24 bond as required under subsection (1) this section. If an enterprise or a business elects not to file
25 a public works bond, the enterprise or business shall give the board written verification of the cer-
26 tification and written notice that the enterprise or business elects not to file the bond.

27 (b) Notwithstanding paragraph (a) of this subsection, if the Commissioner of the Bureau of Labor
28 and Industries finds that an enterprise or a business has violated a provision of ORS 279C.800 to
29 279C.870 or an administrative rule adopted under ORS 279C.800 to 279C.870, the enterprise or
30 business must file a public works bond in accordance with subsection (1) of this section.

31 (c) An enterprise or a business that elects not to file a public works bond under this subsection
32 shall notify the public agency for whose benefit the contract was awarded or, if the enterprise or
33 business is a subcontractor, the contractor of the election before starting work on a public works
34 project. If an enterprise or a business elects not to file a public works bond under this subsection,
35 a claim for unpaid wages may be made against the payment bond of the enterprise or business or,
36 if the enterprise or business is a subcontractor, the payment bond of the contractor.

37 (d) An election not to file a public works bond expires four years after the date the enterprise
38 or business is certified. After an election has expired and before starting or continuing work on a
39 contract or subcontract for a public works project, the enterprise or business shall file a public
40 works bond with the board in accordance with subsection (1) of this section.

41 (8) A contractor or subcontractor may elect not to file the public works bond required under
42 subsection (1) of this section for any public works project for which the contract price does not
43 exceed \$100,000.

44 (9) In cases of emergency, or if the interest or property of the public agency for whose benefit
45 the contract was awarded probably would suffer material injury by delay or other cause, the re-

1 requirement for filing a public works bond may be excused, if a declaration of the emergency is made
2 in accordance with rules adopted under ORS 279A.065.

3 (10) The board shall make available on a searchable public website information concerning
4 public works bonds filed with the board, claims made on those bonds, elections made by certified
5 business enterprises not to file those bonds and the expiration date of each election. The board may
6 adopt rules necessary to perform the duties required of the board by this section.

7 (11) The commissioner, with approval of the board, shall adopt rules that establish language for
8 public works bonds.

9 **SECTION 17.** ORS 285B.740 is amended to read:

10 285B.740. It is the intent of the Legislative Assembly that in the administration of ORS 285B.740
11 to 285B.758, the Oregon Business Development Department work closely with regional economic
12 development organizations, community development corporations, small business development cen-
13 ters and organizations that promote and assist minority-owned businesses, woman-owned businesses,
14 **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses, as
15 those terms are defined in ORS 200.005, and utilize policies, priorities and practices that further
16 entrepreneurial and small business development in rural communities. The department, to the max-
17 imum extent feasible and consistent with prudent financial controls, may delegate the administration
18 and operation of the loan program created by ORS 285B.740 to 285B.758 to local and community-
19 based entities. To carry out the policy described in this section:

20 (1) The department may contract with any nonprofit corporation or agency with experience and
21 expertise in business finance to administer all or any part of the loan program created by ORS
22 285B.740 to 285B.758.

23 (2) When entering into an agreement for the administration of the loan program by any nonprofit
24 corporation or agency, the department may agree to waive any claims it may have against such
25 corporation or agency for losses arising out of the normal course of business, as long as the corpo-
26 ration or agency does not act negligently or fraudulently in providing loans under ORS 285B.740 to
27 285B.758.

28 (3) When entering into an agreement to have a nonprofit corporation or agency administer the
29 loan program created by ORS 285B.740 to 285B.758, the department may pay loan origination and
30 loan servicing fees to the corporation or agency. The amount of such fees may be determined in the
31 agreement between the department and the administering corporation or agency.

32 **SECTION 18.** ORS 285B.764 is amended to read:

33 285B.764. As used in ORS 285B.764 to 285B.775:

34 (1) "Eligible business" means one of the following businesses as defined in ORS 200.005 that is
35 operated for profit and has been certified by the Certification Office for Business Inclusion and Di-
36 versity under ORS 200.055 at the time an application is referred on behalf of the business to the
37 Oregon Business Development Department under ORS 285B.771:

38 (a) A disadvantaged business enterprise;

39 (b) A minority-owned business;

40 (c) A woman-owned business;

41 (d) A **veteran-owned** business [*that a service-disabled veteran owns*]; or

42 (e) An emerging small business.

43 (2) "Prime rate" means the primary credit rate of the discount window program of the United
44 States Federal Reserve System.

45 (3) "Technical assistance provider" means a small business development center established un-

1 der ORS 285B.165 to 285B.171 or a culturally specific business association or chamber that provides
2 one-on-one business counseling services.

3 **SECTION 19.** ORS 286A.615 is amended to read:

4 286A.615. (1) The Private Activity Bond Committee is established. It shall consist of the State
5 Treasurer or the designee of the State Treasurer, one representative from the Oregon Department
6 of Administrative Services and one public representative appointed to serve at the pleasure of the
7 Governor.

8 (2) The State Treasurer, or the State Treasurer's designee, shall serve as chair of the committee.

9 (3) The purpose of private activity bonding in this state is to maximize the economic benefits
10 of private activity bonding to the citizens of this state. The committee shall adopt by rule standards
11 for amounts allocated to the committee for further allocation for economic development, housing,
12 education, redevelopment, public works, energy, waste management, waste and recycling collection,
13 transportation and other activities that the committee determines will benefit the citizens of this
14 state. In developing standards, the committee shall:

15 (a) Survey the expected need for private activity bond allocations at least once each year;

16 (b) Develop strategies for reserving and allocating the limit that are designed to maximize the
17 availability of tax exempt financing among competing sectors of the Oregon economy; and

18 (c) Ensure that the standards include but are not limited to standards that:

19 (A) Support projects that increase the number of family wage jobs in this state.

20 (B) Promote economic recovery in small cities heavily dependent on a single industry.

21 (C) Emphasize development in underdeveloped rural areas of this state.

22 (D) Utilize educational resources available at public universities listed in ORS 352.002.

23 (E) Support development of the state's small businesses, especially minority-owned businesses,
24 woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerg-
25 ing small businesses, as those terms are defined in ORS 200.005.

26 (F) Encourage use of Oregon's human and natural resources in endeavors that harness Oregon's
27 economic comparative advantages.

28 (4) The state private activity bond volume cap allocated to the Private Activity Bond Committee
29 as provided in ORS 286A.620 shall be allocated and reallocated among issuers by the Private Ac-
30 tivity Bond Committee as follows:

31 (a) Any amounts not reserved to an issuer or a class of issuers under the authorization adopted
32 by the Legislative Assembly under ORS 286A.035 shall be allocated or reallocated by the committee
33 under rules adopted under subsection (3) of this section.

34 (b) Any amounts provided for in the authorization adopted by the Legislative Assembly under
35 ORS 286A.035 that are unused shall be carried forward for use as provided by rules adopted under
36 subsection (3) of this section.

37 (c) The rules adopted by the committee shall limit the period of time for which an allocation of
38 private activity bonding authority is effective. The rules shall ensure that allocations made during
39 a calendar year are used during that calendar year or that the unused amount of the allocation is
40 reallocated or carried forward.

41 (5) Unused allocations are not transferable among issuers but are available for reallocation.

42 **SECTION 20.** ORS 293.796 is amended to read:

43 293.796. (1) The Legislative Assembly finds that:

44 (a) The availability of venture capital for the start-up and subsequent expansion of new busi-
45 nesses is critical to the continued growth and development of the economy of Oregon.

1 (b) There exists an estimated gap of between \$100 million and \$200 million between available
 2 venture capital resources and the need of Oregon businesses for such resources.

3 (c) Investments in start-up and expanding businesses, in minority-owned businesses, woman-
 4 owned businesses and **veteran-owned** businesses [*that service-disabled veterans own*] and in emerg-
 5 ing growth businesses can produce substantial positive returns for long-term investors.

6 (d) Pension funds managed by the Oregon Investment Council constitute a major financial re-
 7 source of the State of Oregon, and that such funds may be prudently invested in start-up and
 8 emerging growth businesses in this state under policies established by the Oregon Investment
 9 Council.

10 (2) As used in this section:

11 (a) “Emerging growth business” means an individual or group of individuals or a new or small
 12 company, including but not limited to any new or small partnership, limited liability company, cor-
 13 poration, firm, association or other business entity, that has the capacity, upon obtaining appropri-
 14 ate capital, to generate significant high-skill, high-wage employment.

15 (b) “Minority-owned business,” “woman-owned business” and “**veteran-owned business**”
 16 [*business that a service-disabled veteran owns*] have the meanings given those terms in ORS
 17 200.005.

18 **SECTION 21.** ORS 353.130 is amended to read:

19 353.130. The Oregon Health and Science University subscribes to the policy set forth under ORS
 20 279A.015 regarding public contracting, and shall develop contract policies that support openness,
 21 impartiality and competition in the awarding of contracts in accordance with that provision. The
 22 university subscribes to the intent of the social policies of ORS 279.835 to 279.855 and ORS chapters
 23 279A, 279B and 279C and shall develop contract policies that are appropriate to the university and
 24 are designed to encourage affirmative action, recycling, inclusion of art in public buildings, the
 25 purchase of services and goods from individuals with disabilities, the protection of workers through
 26 the payment of prevailing wages as determined by the Bureau of Labor and Industries, the provision
 27 of workers’ compensation insurance to workers on contracts and the participation of minority-owned
 28 businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*]
 29 and emerging small businesses, as those terms are defined in ORS 200.005.

30 **SECTION 22.** ORS 431A.400, as amended by section 33, chapter 86, Oregon Laws 2022, is
 31 amended to read:

32 431A.400. (1) As used in this section:

33 (a) “Eligible entity” means a:

34 (A) Local government as defined in ORS 174.116;

35 (B) Local housing authority;

36 (C) Nonprofit organization;

37 (D) Federally recognized Indian tribe in Oregon;

38 (E) Indian health center;

39 (F) Coordinated care organization as defined in ORS 414.025;

40 (G) Community action agency as described in ORS 458.505;

41 (H) Manufactured dwelling park nonprofit cooperative as defined in ORS 62.803;

42 (I) An electric utility as defined in ORS 757.600; or

43 (J) A natural gas utility as defined in ORS 757.392.

44 (b) “Environmental justice factor” means a circumstance or condition that impacts a
 45 community’s ability to achieve a balance of health, economic or environmental benefits and burdens

1 or that impacts a community’s ability to participate in public processes.

2 (c) “Grant program recipient” means an eligible entity that has been awarded a grant from the
3 Oregon Health Authority under this section.

4 (d) “Landlord” means a landlord, as defined in ORS 90.100, that meets eligibility criteria for a
5 loan, grant or other financial assistance under the Healthy Homes Program as determined by the
6 authority.

7 (e) “Low income household” means a household having an income equal to or below 80 percent
8 of the area median family income as determined by the authority.

9 (f) “Nonprofit organization” means an organization or group of organizations that is described
10 in section 501(c)(3) of the Internal Revenue Code and is exempt from income tax under section 501(a)
11 of the Internal Revenue Code.

12 (g) “Repair and rehabilitation” includes actions that:

13 (A) Maximize energy efficiency of residences;

14 (B) Extend the usable life of residences; or

15 (C) Improve the health and safety of the occupants of residences, including:

16 (i) Radon abatement;

17 (ii) Lead abatement;

18 (iii) Mold and mildew abatement;

19 (iv) Installation of a smoke filtration system, an air purification system or ventilation or re-
20 duction of pathways for air infiltration;

21 (v) Removal of asthma or allergen triggers;

22 (vi) Structural or safety improvements that increase accessibility or visitability;

23 (vii) Improvements that make homes more fire resistant;

24 (viii) Structural or safety improvements that promote seismic resiliency;

25 (ix) Improvements that reduce the reflection of heat on or around the home, including improve-
26 ments related to trees, vegetation, green roofs or cool roofs; and

27 (x) Electrical upgrades that improve the safety of the home or support or enable the use of en-
28 ergy efficiency upgrades such as heating or cooling devices.

29 (h) “Residence” means a dwelling that is intended for occupation by a single family and is oc-
30 cupied by one or more individuals who are members of a low income household as the individuals’
31 principal residence, including a site-built home, manufactured home, residential trailer, mobile home,
32 condominium unit or unit within multifamily housing.

33 (i) “Smoke filtration system” means a residential air filtration system that meets minimum effi-
34 ciency standards, as determined by the authority, for the removal of particulates and other harmful
35 substances generated by wildfires.

36 (2) The Healthy Homes Program is established within the Oregon Health Authority. The purpose
37 of the program is to provide grants to eligible entities that provide financial assistance to persons
38 in low income households to repair and rehabilitate their residences and to landlords to repair and
39 rehabilitate dwelling units inhabited by low income households.

40 (3) To be eligible to receive grants from the Healthy Homes Program, an eligible entity must
41 establish that it:

42 (a) Serves or represents:

43 (A) Communities with high concentrations of low income households; or

44 (B) Communities impacted by environmental justice factors, including but not limited to:

45 (i) Areas with above-average concentrations of historically disadvantaged households or resi-

1 dents with low levels of educational attainment, areas with high unemployment, high linguistic iso-
 2 lation, low levels of homeownership or high rent burden or sensitive populations;

3 (ii) Areas disproportionately affected by environmental pollution and other hazards that can lead
 4 to negative public health effects, exposure or environmental degradation; or

5 (iii) Other environmental justice factors as determined by the authority.

6 (b) Has the capacity to administer grant funds received under this section.

7 (c) Is able to comply with the requirements of all state and federal laws, rules and regulations.

8 (4)(a) The authority shall adopt by rule processes for eligible entities to apply to receive grants
 9 from the Healthy Homes Program. The processes may include a request for proposals.

10 (b) The authority may adopt by rule:

11 (A) Standards for repair and rehabilitation activities conducted by low-income households;

12 (B) Standards for repair and rehabilitation activities conducted by landlords;

13 (C) Additional requirements for landlords who receive program funds; and

14 (D) Provisions for the allocation of program funds including but not limited to allocations for
 15 types of eligible entities, types of recipients, types of housing and regions of this state.

16 (c) The authority, in consultation with the Governor's Policy Advisor for Economic and Business
 17 Equity, may establish by rule standards for the work performed using grants from the program to
 18 be performed by disadvantaged business enterprises, minority-owned businesses, woman-owned busi-
 19 nesses or **veteran-owned** businesses [*that service-disabled veterans own*], as those terms are defined
 20 in ORS 200.005.

21 (5) Upon being awarded a grant under this section, the grant program recipient shall enter into
 22 an agreement with the authority that contains provisions that:

23 (a) Indicate the purposes for which the grant funds may be used;

24 (b) Prohibit the grant program recipient from using more than 15 percent of grant funds for
 25 administrative expenses and program delivery costs;

26 (c) Include the repayment provisions set forth in subsection (6) of this section;

27 (d) Permit the authority to conduct audits and investigations of the grant program recipient
 28 regarding the purposes for which grant funds have been used; and

29 (e) Require the grant program recipient to provide reports as set forth in subsection (7) of this
 30 section.

31 (6) A grant program recipient must repay to the authority, in whole or in part, grant funds re-
 32 ceived under this section to the extent that:

33 (a) The grant program recipient does not use the grant funds in accordance with the provisions
 34 of the grant agreement executed between the authority and the grant program recipient under sub-
 35 section (5) of this section; or

36 (b) The Director of the Oregon Health Authority determines that the grant program recipient
 37 must repay all or part of the grant funds on grounds of misappropriation, fraud or similar reasons
 38 after auditing or investigating the grant program recipient's operations and conducting a contested
 39 case hearing under ORS 183.413 to 183.470.

40 (7) A grant program recipient shall report to the authority by June 30 of each year concerning
 41 the status and use of grant funds received under this section. The report required under this section
 42 may not disclose the personal information of the recipients of loans, grants or other financial as-
 43 sistance under the Healthy Homes Program. The report must include:

44 (a) A detailed description of the grant program recipient's use of grant funds;

45 (b) A list of each loan, grant or other financial assistance that the grant program recipient has

1 provided and, where applicable, a full accounting of the repayment status of the loans;

2 (c) The number of low income households that the grant program recipient has provided finan-
3 cial assistance to for the repair and rehabilitation of their residences;

4 (d) The number of landlords that the grant program recipient has provided financial assistance
5 to for the repair and rehabilitation of dwelling units;

6 (e) The nature and amounts of the administrative expenses and program delivery costs the grant
7 program recipient has incurred in providing the financial assistance under the program;

8 (f) Disaggregated data concerning the income, racial or ethnic background, family size and re-
9 lated demographic information of low income households who received financial assistance for repair
10 and rehabilitation of residences under the program from the grant program recipient; and

11 (g) Any other information required by the authority.

12 (8) The authority may not pay amounts for grants under this section from any source other than
13 available funds in the Healthy Homes Repair Fund established in ORS 431A.402.

14 (9) Under the Healthy Homes Program, the authority may develop, or contract with public in-
15 stitutions of higher education or nonprofit organizations to assist in developing:

16 (a) Methods for evaluating health hazards in housing;

17 (b) Methods for preventing and reducing health hazards in housing;

18 (c) Performance measures for the work being performed through the financial assistance pro-
19 vided under the program; and

20 (d) Recommendations for promoting the incorporation of healthy housing into ongoing practices
21 and systems, including housing codes.

22 **SECTION 23.** ORS 468A.805 is amended to read:

23 468A.805. (1) Subject to and consistent with ORS 468A.803 (8) and with the terms of the Envi-
24 ronmental Mitigation Trust Agreement, any moneys received by the State of Oregon pursuant to the
25 agreement that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 must be ex-
26 pended by the Department of Environmental Quality as follows:

27 (a) The department shall award grants to owners and operators of school buses to reduce emis-
28 sions from at least 450 school buses powered by diesel engines operating in this state.

29 (b) Moneys not expended under paragraph (a) of this subsection must be:

30 (A) Awarded as grants for the purpose of reducing emissions from diesel engines; or

31 (B) Utilized by the department as the State of Oregon's voluntary matching funds under the
32 Diesel Emissions Reduction Act Program in the Energy Policy Act of 2005, 42 U.S.C. 16133, and for
33 the purpose of awarding grants for reducing diesel particulate matter emissions from diesel engines.

34 (2)(a) In awarding grants under subsection (1)(a) of this section, the department shall begin by
35 awarding grants to owners and operators of school buses powered by diesel engines that are of the
36 median model year of school buses powered by diesel engines operating in this state, and shall
37 proceed to award grants for school buses powered by diesel engines through the adjoining model
38 years until the requirements of subsection (1)(a) of this section are met. A grant may be awarded
39 under subsection (1)(a) of this section for any school bus powered by a diesel engine within the
40 control of an owner or operator that meets the following conditions:

41 (A) The school bus has at least three years of remaining useful life;

42 (B) Use of the school bus has occurred in Oregon during the year preceding the date of the
43 grant; and

44 (C) For the three years following receipt of a grant award, use of the school bus to which the
45 owner or operator applies the grant will occur in Oregon.

(b) The grant amount per school bus awarded under subsection (1)(a) of this section shall be for:

(A) \$50,000 or 30 percent of the cost to purchase a school bus that meets minimum standards adopted by the State Board of Education under ORS 820.100 for the applicable class or type of school bus, whichever is less; or

(B) Up to 100 percent of the cost to retrofit a school bus with emissions-reducing parts or technology that results in a reduction of diesel particulate matter emissions by at least 85 percent when compared with the baseline emissions for the relevant engine year and application.

(3) In awarding grants pursuant to subsection (1)(b) of this section, the department shall give preference to projects that will:

(a) Support compliance with ORS 803.591 or with contract specifications or preferences related to emissions standards for diesel engines established by a public body, as defined in ORS 174.109;

(b) Be carried out by a grant applicant that is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business, as those terms are defined in ORS 200.005;

(c) Involve the replacement, repower or retrofit of one or more motor vehicles or pieces of equipment that have at least three years of remaining useful life at the time that the grant agreement is executed;

(d) Support the utilization of fuels for which regulated parties may generate credits under the clean fuels program adopted by rule by the Environmental Quality Commission under ORS 468A.266 (1)(b);

(e) Benefit owners and operators of heavy-duty trucks, if the fleet of the owner or operator includes only one heavy-duty truck and the heavy-duty truck is registered in Multnomah, Clackamas or Washington County;

(f) Benefit small fleets other than as described in paragraph (e) of this subsection;

(g) Involve the retrofit of concrete mixer trucks or trucks that are used for the transportation of aggregate; or

(h) Meet the criteria of any other preferences that the commission may establish by rule, if the department determines that the additional preferences are necessary to ensure that grant awards result in the reduction of emissions from diesel engines.

(4) The commission may adopt rules as necessary to implement the provisions of this section.

SECTION 24. ORS 470.560 is amended to read:

470.560. (1) The State Department of Energy shall adopt rules establishing certification standards for primary contractors participating in the construction of small scale local energy projects financed through the energy efficiency and sustainable technology loan program. The department shall design the standards to ensure that the project work performed by a primary contractor holding the certification and all the primary contractor's subcontractors is of high quality and will result in a high degree of customer satisfaction.

(2) The certification standards established by the department must, at a minimum, require that the primary contractor:

(a) Prove that the primary contractor and the primary contractor's subcontractors have sufficient skill to successfully install energy efficiency, renewable energy or weatherization projects.

(b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

(c) Be an equal opportunity employer or small business or be a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a*

1 *service-disabled veteran owns*] or an emerging small business, as those terms are defined in ORS
 2 200.005.

3 (d) Demonstrate a history of compliance with the rules and other requirements of the Con-
 4 struction Contractors Board and of the Workers' Compensation Division and the Occupational
 5 Safety and Health Division of the Department of Consumer and Business Services.

6 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable technol-
 7 ogy loan program projects from the local work force, if a sufficient supply of skilled workers is
 8 available locally.

9 (f) Demonstrate a history of compliance with federal and state wage and hour laws.

10 (g) Pay wages to employees used for energy efficiency and sustainable technology loan program
 11 projects at a rate equal to at least 180 percent of the state minimum wage.

12 (3) The State Department of Energy shall consult with the Public Purpose Fund Administrator
 13 and utilities when developing certification standards for primary contractors.

14 (4) The Construction Contractors Board may issue a qualifying primary contractor a certifica-
 15 tion authorizing the primary contractor to participate in the construction of small scale local energy
 16 projects financed through the energy efficiency and sustainable technology loan program. A primary
 17 contractor seeking certification shall apply to the board as provided under ORS 701.119.

18 (5) The State Department of Energy shall identify certified primary contractors that provide
 19 employees with health insurance benefits as preferred service providers and may take other actions
 20 as practicable to encourage certified primary contractors to provide employees with health insur-
 21 ance benefits.

22 **SECTION 25. The amendments to ORS 184.404, 200.005, 200.025, 200.045, 200.055, 200.065,**
 23 **200.075, 200.090, 200.110, 200.120, 279A.105, 279A.107, 279A.110, 279C.110, 279C.537, 279C.836,**
 24 **285B.740, 285B.764, 286A.615, 293.796, 353.130, 431A.400, 468A.805 and 470.560 by sections 1 to**
 25 **24 of this 2023 Act apply to procurements that a contracting agency advertises or solicits or,**
 26 **if the contracting agency does not advertise or solicit the procurement, to public contracts**
 27 **into which the contracting agency enters on and after the operative date specified in section**
 28 **26 of this 2023 Act.**

29 **SECTION 26. (1) The amendments to ORS 184.404, 200.005, 200.025, 200.045, 200.055,**
 30 **200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.107, 279A.110, 279C.110, 279C.537,**
 31 **279C.836, 285B.740, 285B.764, 286A.615, 293.796, 353.130, 431A.400, 468A.805 and 470.560 by**
 32 **sections 1 to 24 of this 2023 Act become operative on January 1, 2024.**

33 **(2) The Attorney General, the Director of the Oregon Department of Administrative**
 34 **Services, the Director of the Oregon Business Development Department, the Director of**
 35 **Transportation and a contracting agency that adopts rules under ORS 279A.065 or 279A.070**
 36 **may adopt rules and take any other action before the operative date specified in subsection**
 37 **(1) of this section that is necessary to enable the Attorney General, the director or the**
 38 **contracting agency to undertake or exercise, on and after the operative date specified in**
 39 **subsection (1) of this section, all of the duties, functions and powers conferred on the At-**
 40 **torney General, the director or the contracting agency by the amendments to ORS 184.404,**
 41 **200.005, 200.025, 200.045, 200.055, 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.107,**
 42 **279A.110, 279C.110, 279C.537, 279C.836, 285B.740, 285B.764, 286A.615, 293.796, 353.130, 431A.400,**
 43 **468A.805 and 470.560 by sections 1 to 24 of this 2023 Act.**

44 **SECTION 27. This 2023 Act takes effect on the 91st day after the date on which the 2023**
 45 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

