

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2375**

1 On page 1 of the printed bill, delete lines 4 through 27 and delete pages  
2 2 and 3 and insert:

3 **“SECTION 1. Sections 2, 3 and 4 of this 2015 Act are added to and**  
4 **made a part of ORS chapter 279A.**

5 **“SECTION 2. (1) As used in this section:**

6 **“(a)(A) ‘Contract form’ means a document with terms and condi-**  
7 **tions that the Attorney General and the Oregon Department of Ad-**  
8 **ministrative Services develop, approve and make available for state**  
9 **contracting agencies to use without alteration as the terms and con-**  
10 **ditions of a public contract.**

11 **“(B) ‘Contract form’ does not include specifications for a procure-**  
12 **ment, a scope of work or related portions of a public contract that a**  
13 **state contracting agency necessarily develops as a means of achieving**  
14 **the results the state contracting agency intends for the procurement.**

15 **“(b)(A) ‘Contract template’ means a document with terms and**  
16 **conditions that the Attorney General and the department develop,**  
17 **approve and make available for state contracting agencies to use, with**  
18 **appropriate alterations, as the basis for the terms and conditions of a**  
19 **public contract.**

20 **“(B) ‘Contract template’ does not include specifications for a pro-**  
21 **curement, a scope of work or related portions of a public contract that**  
22 **a state contracting agency necessarily develops as a means of achiev-**

1 ing the results the state contracting agency intends for the procure-  
2 ment.

3 “(c) ‘Solicitation template’ means a request for information, a re-  
4 quest for a quotation, an invitation to bid, a request for proposals or  
5 other document for soliciting a procurement under the Public Con-  
6 tracting Code in which the Attorney General and the department de-  
7 velop, approve and make available standardized language that a state  
8 contracting agency must use, with appropriate alterations, for a so-  
9 licitation.

10 “(2)(a) Except as provided in paragraph (c) of this subsection, a  
11 state contracting agency shall use a solicitation template in advertis-  
12 ing and soliciting all procurements under the Public Contracting Code  
13 and, as provided in paragraph (b) of this subsection, shall use a con-  
14 tract form or a contract template, as appropriate, as the basis for all  
15 public contracts into which the state contracting agency enters.

16 “(b) A state contracting agency shall use a contract form for all  
17 price agreements, cooperative procurements or procurements for  
18 which the specifications for goods or services, the terms and condi-  
19 tions, the scope of work or other aspects of a procurement or a class  
20 of procurements do not vary significantly among state contracting  
21 agencies, or for procurements or classes of procurements in which the  
22 Attorney General and the Director of the Oregon Department of Ad-  
23 ministrative Services determine that using a contract form is neces-  
24 sary for the state contracting agency to avoid significant liabilities or  
25 other risks. A state contracting agency may vary the terms and con-  
26 ditions set forth in a contract template only with the advice of the  
27 Attorney General or legal counsel that the Attorney General approves.

28 “(c) A state contracting agency may base a public contract on  
29 terms and conditions other than the terms and conditions set forth in  
30 a contract form or a contract template only if:

1       “(A) The state contracting agency receives approval from the At-  
2       torney General or, if the state contracting agency is subject to ORS  
3       279A.140, from the Director of the Oregon Department of Administra-  
4       tive Services;

5       “(B) The nature of the procurement is unique and the public con-  
6       tract requires specific terms and conditions to accommodate the  
7       unique nature of the procurement;

8       “(C) The state contracting agency consults the Attorney General,  
9       or legal counsel that the Attorney General approves, to develop ap-  
10      propriate terms and conditions for the public contract and for legal  
11      advice during all phases of the procurement for which the Attorney  
12      General determines that legal advice is necessary and relevant; and

13      “(D) The state contracting agency submits the public contract to  
14      the Attorney General for approval for legal sufficiency, if the pro-  
15      visions of ORS 291.047 require the submission.

16      “(d) This subsection does not apply to a procurement that a state  
17      contracting agency conducts under ORS 279B.065.

18      “(3) The Attorney General and the Director of the Oregon Depart-  
19      ment of Administrative Services shall cooperate to:

20      “(a) Develop and make available solicitation templates, contract  
21      forms and contract templates for procurements or classes of procure-  
22      ments that state contracting agencies require; and

23      “(b) Adopt rules under ORS 279A.065 to implement the provisions  
24      of this section.

25      “SECTION 3. (1) A person that administers public contracts for a  
26      contracting agency shall complete a course of education and training  
27      or have professional experience that, at a minimum and in accordance  
28      with standards established under subsection (2) of this section, ade-  
29      quately prepares the person to:

30      “(a) Develop specifications and develop or adapt solicitation docu-

1 **ments for a procurement;**

2 **“(b) Read critically, understand, interpret and apply terms and**  
3 **conditions set forth in public contracts of the scope and nature that**  
4 **the person administers or will administer;**

5 **“(c) Draft specifications, scopes of work, statements of work, con-**  
6 **tract amendments, change orders, insurance requirements, notices**  
7 **and other documents and communications that are necessary to ad-**  
8 **minister public contracts of the scope and nature that the person ad-**  
9 **ministers or will administer;**

10 **“(d) Monitor a contractor’s performance under a public contract to**  
11 **ensure that the contractor performs services, provides goods or sup-**  
12 **plies materials according to the schedule, pricing, specifications and**  
13 **terms and conditions set forth in a public contract;**

14 **“(e) Manage relations between the contracting agency and con-**  
15 **tractors so that contractors meet obligations to the contracting**  
16 **agency and the contracting agency meets obligations to contractors;**

17 **“(f) Recognize and investigate emerging disputes or other risks,**  
18 **unique requirements, unusual situations or other issues that arise**  
19 **with a procurement and formulate appropriate responses and resol-**  
20 **utions, seeking advice from legal counsel, risk management personnel**  
21 **or other persons when necessary;**

22 **“(g) Understand auditing requirements and procedures that apply**  
23 **to public contracts of the scope and nature that the person adminis-**  
24 **ters or will administer and organize and maintain appropriate doc-**  
25 **umentation and administrative practices that meet the auditing**  
26 **requirements; and**

27 **“(h) Follow regular business and office procedures, implement ap-**  
28 **plicable contracting agency policies and procedures and otherwise ad-**  
29 **minister a contracting agency’s public contracts in accordance with**  
30 **best practices.**

1       “(2)(a) The Oregon Department of Administrative Services by rule  
2 shall establish standards for the education and training or experience  
3 a person must have to administer public contracts on behalf of a  
4 contracting agency and may specify requirements in addition to the  
5 requirements set forth in subsection (1) of this section. The standards  
6 must describe the contents and quality of a curriculum for an appro-  
7 priate education or training program, fix a passing score for an ex-  
8 amination or assessment, if appropriate, specify requirements for  
9 obtaining a certificate or other evidence of having completed the edu-  
10 cation or training program and otherwise determine the skills and the  
11 level and depth of knowledge a person must have obtained from the  
12 education or training program. The standards must also describe the  
13 length of service or other evidence of adequate experience that a per-  
14 son must have in order to administer public contracts on behalf of a  
15 contracting agency.

16       “(b) The department may establish levels or classifications of edu-  
17 cation and training or experience that are necessary to administer  
18 public contracts on behalf of a contracting agency according to the  
19 complexity, scope or category of procurements a contracting agency  
20 conducts, the level of responsibility a person will undertake in ad-  
21 ministering the public contracts or other appropriate criteria.

22       “(c) The department may provide an education or training program  
23 that meets the standards the department establishes under this sub-  
24 section or may approve an education or training program that meets  
25 the standards.

26       “(d) The department by rule shall set a date, not later than De-  
27 cember 31, 2017, by which an education or training program must meet  
28 the standards the department establishes under this subsection and a  
29 date, not later than December 31, 2018, after which all persons that  
30 administer public contracts on behalf of contracting agencies must

1 meet the requirements specified in this section. In setting dates under  
2 this paragraph, the department shall take into account the fiscal im-  
3 pact of the standards and requirements on contracting agencies and  
4 may phase in or specify incremental steps for meeting the standards  
5 and requirements.

6 “(e) The department may delegate to a local contract review board  
7 responsibility under this subsection for establishing standards that will  
8 govern education and training or experience requirements necessary  
9 to administer a public contract on behalf of a local contracting agency.

10 **“SECTION 4.** Before a contracting agency executes a public con-  
11 tract, the director or other head of the contracting agency shall re-  
12 view, and shall verify that the person that will administer the public  
13 contract on behalf of the contracting agency has read and under-  
14 stands, all advice and recommendations that the Department of Jus-  
15 tice or the Oregon Department of Administrative Services provided to  
16 the contracting agency with respect to the public contract and the  
17 procurement that resulted in the public contract. The director or head  
18 of the contracting agency shall sign and retain in the contracting  
19 agency’s records a statement that acknowledges that the director or  
20 head of the contracting agency has reviewed the advice and recom-  
21 mendations and made the verification described in this section.

22 **“SECTION 5.** The Oregon Department of Administrative Services  
23 shall develop and evaluate advice and recommendations for promoting  
24 best practices in public contracting that are predicated on previous  
25 successes and failures, reducing risks and inefficiencies and otherwise  
26 improving accountability, responsiveness, effectiveness and quality in  
27 public contracting. The department shall evaluate the feasibility and  
28 practicality of, and methods by which the state may develop and im-  
29 plement, a system of peer review or a reservoir of shared expertise  
30 among contracting agencies and shall seek and obtain advice and rec-

1 ommendations from subject matter specialists that the Attorney Gen-  
2 eral, the department and other contracting agencies employ or  
3 recognize as having expertise, experience or ideas that will enable the  
4 department to meet the requirements of this section. The department  
5 shall include the advice and recommendations the department devel-  
6 ops and evaluates under this section in a report to an interim com-  
7 mittee of the Legislative Assembly related to public contracting not  
8 later than November 30, 2015.

9 **“SECTION 6. (1) Section 2 of this 2015 Act applies to procurements**  
10 **that a state contracting agency conducts on and after the operative**  
11 **date specified in section 7 of this 2015 Act.**

12 **“(2) Section 3 of this 2015 Act applies to procurements that a con-**  
13 **tracting agency conducts on and after the date the Oregon Department**  
14 **of Administrative Services sets under section 3 (2)(d) of this 2015 Act.**

15 **“(3) Section 4 of this 2015 Act applies to public contracts into which**  
16 **a contracting agency enters on and after the operative date specified**  
17 **in section 7 of this 2015 Act.**

18 **“SECTION 7. (1) Sections 2, 3 and 4 of this 2015 Act become opera-**  
19 **tive January 1, 2016.**

20 **“(2) The Attorney General, the Director of the Oregon Department**  
21 **of Administrative Services, the Director of Transportation and a con-**  
22 **tracting agency that adopts rules under ORS 279A.065 may adopt rules**  
23 **and take any other action before the operative date specified in sub-**  
24 **section (1) of this section that is necessary to enable the Attorney**  
25 **General, the director or the contracting agency to exercise, on and**  
26 **after the operative date specified in subsection (1) of this section, all**  
27 **of the duties, functions and powers conferred on the Attorney General,**  
28 **the director or the contracting agency by sections 2, 3 and 4 of this**  
29 **2015 Act.**

30 **“SECTION 8. This 2015 Act being necessary for the immediate**

1 **preservation of the public peace, health and safety, an emergency is**  
2 **declared to exist, and this 2015 Act takes effect on its passage.”.**

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