

**A-Engrossed**  
**House Bill 3203**

Ordered by the House April 21  
Including House Amendments dated April 21

Sponsored by Representative CLEM (at the request of Northwest Utility Contractors Association, Oregon Building Trades Council, Oregon Pavement Association, Associated General Contractors, Oregon Concrete and Asphalt Producers Association, Associated Builders and Contractors)

**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.

Requires contracting agency to perform analysis to determine whether constructing public improvement with contracting agency's own equipment and personnel will result in least cost to contracting agency. **Specifies elements of cost analysis.** Requires contracting agency to file analysis with *[Secretary of State]* **Commissioner of Bureau of Labor and Industries.**

*[Permits Secretary of State]* **Requires commissioner** to investigate contracting agency's alleged violation of Act and certain other statutes. Requires *[Secretary of State]* **commissioner** to investigate alleged violation in response to complaint from construction contractor or trade association that represents construction contractors. Permits *[Secretary of State]* **commissioner to require contracting agency to negotiate and enter into agreement to comply with requirements of Act and to enter final order that sets forth terms of [any] agreement between contracting agency and construction contractor or trade association.**

Permits party to agreement with contracting agency made in accordance with order of *[Secretary of State]* **commissioner** to bring action in court of this state to enforce terms of agreement. Permits court to *[award actual damages to plaintiff in action or to]* enjoin contracting agency from violation **or grant writ of mandamus to compel contracting agency to perform action under agreement.**

Becomes operative January 1, 2018.

*[Declares emergency, effective on passage.]*

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

**A BILL FOR AN ACT**

1  
2 Relating to an analysis required before a contracting agency constructs a public improvement with  
3 the agency's own equipment and personnel; creating new provisions; amending ORS 279A.010  
4 and 279C.305; and prescribing an effective date.

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

6 **SECTION 1.** ORS 279C.305 is amended to read:

7 279C.305. (1) *[It is]* The policy of the State of Oregon **is** that contracting agencies shall make  
8 every effort to construct public improvements at the least cost to the contracting agency.

9 (2) Not less than 30 days *[prior to adoption of the contracting agency's]* **before adopting a** budget  
10 for the subsequent budget period, each contracting agency shall prepare and file with the Commis-  
11 sioner of the Bureau of Labor and Industries a list of every public improvement *[known to the con-*  
12 *tracting agency]* that the contracting agency plans to fund in the budget period, identifying each  
13 improvement by name and estimating the total on-site construction costs. The list *[shall]* **must** also  
14 *[contain a statement as to]* **state** whether the contracting agency intends to perform the construction  
15 through a private contractor. If the contracting agency intends to perform construction work using  
16 the contracting agency's own equipment and personnel on a project estimated to cost more than  
17 \$125,000, the contracting agency shall *[also show]* **include with the list an analysis that shows**

**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 that the contracting agency's decision conforms to the policy stated in subsection (1) of this section.  
2 The list *[is a]* **and the analysis are public** *[record]* **records and the contracting agency may pe-**  
3 **riodically revise the list or analysis** *[may be revised periodically by the agency].*

4 **(3) As part of the analysis described in subsection (2) of this section, a contracting**  
5 **agency shall:**

6 **(a) Estimate the cost of constructing a public improvement by contracting with a private**  
7 **contractor;**

8 **(b) Include in the contracting agency's estimate of the costs the contracting agency**  
9 **would incur in constructing the public improvement with the contracting agency's own**  
10 **equipment and personnel:**

11 **(A) The cost of labor, including all benefits, workers' compensation insurance premiums**  
12 **and the cost of traveling to and from the site of the public improvement that the contracting**  
13 **agency pays to or on behalf of the contracting agency's employees;**

14 **(B) The cost of equipment, including any costs associated with acquiring, owning, insur-**  
15 **ing, storing, operating, repairing and maintaining the equipment and transporting the**  
16 **equipment to and from the site of the public improvement;**

17 **(C) The costs of administration and overhead the contracting agency will incur, including**  
18 **costs associated with maintaining a shop or office and the costs of insurance that the con-**  
19 **tracting agency allocates to the public improvement;**

20 **(D) The cost of tools and materials;**

21 **(E) Costs associated with any contracts into which the contracting agency must enter;**

22 **(F) The reasonable value of warranties and quality control if the contracting agency**  
23 **would require warranties and quality control of a private contractor that constructed the**  
24 **public improvement; and**

25 **(G) Any other costs that the contracting agency would incur to construct the public**  
26 **improvement with the contracting agency's own equipment and personnel; and**

27 **(c) Compare the cost the contracting agency estimates under paragraph (a) of this sub-**  
28 **section with the cost the contracting agency would incur to construct the public improve-**  
29 **ment with the contracting agency's own equipment and personnel, taking into account all**  
30 **of the elements specified in paragraph (b) of this subsection.**

31 *[(3)]* **(4) Before a contracting agency constructs a public improvement with** *[its]* **the contracting**  
32 **agency's own equipment or personnel, the contracting agency shall:**

33 *[(a) If the estimated cost exceeds \$125,000, the contracting agency shall prepare adequate plans and*  
34 *specifications and the estimated unit cost of each classification of work. The estimated cost of the work*  
35 *must include a reasonable allowance for the cost, including investment cost, of any equipment used.*  
36 *As used in this paragraph, "adequate" means sufficient to control the performance of the work and to*  
37 *ensure satisfactory quality of construction by the contracting agency personnel.]*

38 **(a) Prepare plans, specifications and estimates of the unit cost of each classification of**  
39 **work that are sufficient to control the performance of the work and ensure satisfactory**  
40 **construction quality, if the estimated cost of the public improvement exceeds \$125,000.**

41 **(b)** *[The contracting agency shall cause to be kept and preserved]* **Prepare and preserve** a full,  
42 true and accurate account of the **actual** costs of performing the work, including all *[engineering and*  
43 *administrative expenses and the cost, including investment costs, of any equipment used]* **costs de-**  
44 **scribed in subsection (3)(b) of this section, and use the costs in future cost estimates for the**  
45 **public improvement.** The final account of the costs is a public record.

1        [(4)] (5) Subsections (2) [*and* (3)] **to (4)** of this section do not apply to a contracting agency  
2 [*when*] **if** the public improvement is [*to be used for the distribution or transmission of*] **for distrib-**  
3 **uting or transmitting** electric power.

4        [(5)] (6)(a) **Except as provided in paragraph (b) of this subsection**, for purposes of this sec-  
5 tion, resurfacing [*of*] highways, roads or streets at a depth of two or more inches [*and*] **or** at an  
6 estimated cost that exceeds \$125,000 is a public improvement.

7        **(b) For purposes of this section, a public improvement does not include:**

8        **(A) Maintaining a road with patching, chip seals or other seals as a maintenance treat-**  
9 **ment on highways, roads, streets or bridges; or**

10        **(B) Maintenance resurfacing for a single road, highway or street in different locations**  
11 **along the road, highway or street, even if the total cost of the resurfacing exceeds \$125,000,**  
12 **provided that the cost of resurfacing any one location on the road, highway or street does**  
13 **not exceed \$125,000 and provided that the contracting agency does not artificially separate**  
14 **the resurfacing project into smaller projects in order to avoid the application of this section.**

15        **SECTION 2.** Section 3 of this 2017 Act is added to and made a part of ORS chapter 279C.

16        **SECTION 3.** (1)(a) A contractor that would be eligible to construct a public improvement  
17 **under this chapter or a trade association of contractors acting on behalf of a member of the**  
18 **trade association may allege in a complaint to the Commissioner of the Bureau of Labor and**  
19 **Industries that a contracting agency has violated ORS 279C.305 or 279C.310.**

20        **(b) A complaint under paragraph (a) of this subsection must set forth the acts or omis-**  
21 **sions that constitute the alleged violation. The contractor or trade association must file the**  
22 **complaint with the commissioner within one year after the alleged violation occurred.**

23        **(c) A contractor or trade association may not file a complaint under this subsection if**  
24 **the contractor or trade association has brought an action in a court of this state that alleges**  
25 **an act or omission that is the same or substantially similar to an act or omission the con-**  
26 **tractor or trade association would allege in the complaint. The commissioner may not act**  
27 **on a complaint described in this paragraph.**

28        **(2) The commissioner shall investigate an alleged violation of ORS 279C.305 or 279C.310.**  
29 **In the course of an investigation under this subsection, the commissioner may:**

30        **(a) Compel attendance from witnesses, receive testimony and examine the witnesses un-**  
31 **der oath;**

32        **(b) Require a contracting agency or an employee of a contracting agency to produce**  
33 **books, records, files and other documents; and**

34        **(c) Take any other action the commissioner deems necessary to conduct the investi-**  
35 **gation.**

36        **(3)(a) If after an investigation under this section the commissioner finds substantial ev-**  
37 **idence of a violation of ORS 279C.305 or 279C.310, the commissioner shall:**

38        **(A) Notify the contracting agency in writing that the commissioner has found substantial**  
39 **evidence of a violation of ORS 279C.305 or 279C.310, describe the nature of the violation and,**  
40 **if the commissioner has not found a violation previously, state that for future violations,**  
41 **including any future violations that occur during construction of the same public improve-**  
42 **ment, the commissioner will require the contracting agency to negotiate and enter into an**  
43 **agreement under paragraph (b) of this subsection.**

44        **(B) Provide a copy of any notice the commissioner issued under subparagraph (A) of this**  
45 **paragraph to any contractor or trade association that filed a complaint concerning the vio-**

1 lation under subsection (1) of this section.

2 (b) If the commissioner in the course of the investigation under paragraph (a) of this  
3 subsection finds that the same contracting agency previously violated ORS 279C.305 or  
4 279C.310, the commissioner shall require the contracting agency to negotiate and enter into  
5 an agreement with the contractor or trade association that submitted a complaint under  
6 subsection (1) of this section to remedy the violation and prevent future violations. The  
7 commissioner in an order may set forth, and direct the contracting agency to comply with,  
8 the terms of the agreement.

9 (4)(a) If a contracting agency that is a party to an agreement set forth in accordance  
10 with an order of the commissioner under subsection (3)(b) of this section breaches the  
11 agreement, a contractor or trade association that is also a party to the agreement may bring  
12 an action against the contracting agency in a court of this state to:

13 (A) Petition the court for an injunction to prevent the contracting agency from breaching  
14 or continuing to breach the terms of the agreement; or

15 (B) Seek a writ of mandamus under ORS 34.105 to 34.240 to compel the contracting  
16 agency to perform an action required under the terms of the agreement.

17 (b) A contractor or trade association must bring an action under this subsection within  
18 one year after the contracting agency's alleged breach of the agreement.

19 **SECTION 4.** ORS 279A.010 is amended to read:

20 279A.010. (1) As used in the Public Contracting Code, unless the context or a specifically ap-  
21 plicable definition requires otherwise:

22 (a) "Bidder" means a person that submits a bid in response to an invitation to bid.

23 (b) "Contracting agency" means a public body authorized by law to conduct a procurement.  
24 "Contracting agency" includes, but is not limited to, the Director of the Oregon Department of Ad-  
25 ministrative Services and any person authorized by a contracting agency to conduct a procurement  
26 on the contracting agency's behalf. "Contracting agency" does not include the judicial department  
27 or the legislative department.

28 (c) "Days" means calendar days.

29 (d) "Department" means the Oregon Department of Administrative Services.

30 (e) "Director" means the Director of the Oregon Department of Administrative Services or a  
31 person designated by the director to carry out the authority of the director under the Public Con-  
32 tracting Code.

33 (f) "Emergency" means circumstances that:

34 (A) Could not have been reasonably foreseen;

35 (B) Create a substantial risk of loss, damage or interruption of services or a substantial threat  
36 to property, public health, welfare or safety; and

37 (C) Require prompt execution of a contract to remedy the condition.

38 (g) "Energy savings performance contract" means a public contract between a contracting  
39 agency and a qualified energy service company for the identification, evaluation, recommendation,  
40 design and construction of energy conservation measures, including a design-build contract, that  
41 guarantee energy savings or performance.

42 (h) "Executive department" has the meaning given that term in ORS 174.112.

43 (i) "Goods" includes supplies, equipment, materials, personal property, including any tangible,  
44 intangible and intellectual property and rights and licenses in relation thereto, and combinations  
45 of any of the items identified in this paragraph.

1 (j) “Goods and services” or “goods or services” includes combinations of any of the items iden-  
2 tified in the definitions of “goods” and “services.”

3 (k)(A) “Grant” means:

4 (i) An agreement under which a contracting agency receives moneys, property or other assist-  
5 ance, including but not limited to federal assistance that is characterized as a grant by federal law  
6 or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other  
7 assets, from a grantor for the purpose of supporting or stimulating a program or activity of the  
8 contracting agency and in which no substantial involvement by the grantor is anticipated in the  
9 program or activity other than involvement associated with monitoring compliance with the grant  
10 conditions; or

11 (ii) An agreement under which a contracting agency provides moneys, property or other assist-  
12 ance, including but not limited to federal assistance that is characterized as a grant by federal law  
13 or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other  
14 assets, to a recipient for the purpose of supporting or stimulating a program or activity of the re-  
15 cipient and in which no substantial involvement by the contracting agency is anticipated in the  
16 program or activity other than involvement associated with monitoring compliance with the grant  
17 conditions.

18 (B) “Grant” does not include a public contract for a public improvement, for public works, as  
19 defined in ORS 279C.800, or for emergency work, minor alterations or ordinary repair or mainte-  
20 nance necessary to preserve a public improvement, when under the public contract a contracting  
21 agency pays, in consideration for contract performance intended to realize or to support the real-  
22 ization of the purposes for which grant funds were provided to the contracting agency, moneys that  
23 the contracting agency has received under a grant.

24 (L) “Industrial oil” means any compressor, turbine or bearing oil, hydraulic oil, metal-working  
25 oil or refrigeration oil.

26 (m) “Judicial department” has the meaning given that term in ORS 174.113.

27 (n) “Legislative department” has the meaning given that term in ORS 174.114.

28 (o) “Local contract review board” means a local contract review board described in ORS  
29 279A.060.

30 (p) “Local contracting agency” means a local government or special government body authorized  
31 by law to conduct a procurement. “Local contracting agency” includes any person authorized by a  
32 local contracting agency to conduct a procurement on behalf of the local contracting agency.

33 (q) “Local government” has the meaning given that term in ORS 174.116.

34 (r) “Lowest responsible bidder” means the lowest bidder who:

35 (A) Has substantially complied with all prescribed public contracting procedures and require-  
36 ments;

37 (B) Has met the standards of responsibility set forth in ORS 279B.110 or 279C.375;

38 (C) Has not been debarred or disqualified by the contracting agency under ORS 279B.130 or  
39 279C.440; and

40 (D) If the advertised contract is a public improvement contract, is not on the list created by the  
41 Construction Contractors Board under ORS 701.227.

42 (s) “Lubricating oil” means any oil intended for use in an internal combustion crankcase,  
43 transmission, gearbox or differential or an automobile, bus, truck, vessel, plane, train, heavy equip-  
44 ment or machinery powered by an internal combustion engine.

45 (t) “Person” means a natural person capable of being legally bound, a sole proprietorship, a

1 corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-  
2 profit or nonprofit unincorporated association, a business trust, two or more persons having a joint  
3 or common economic interest, any other person with legal capacity to contract or a public body.

4 (u) "Post-consumer waste" means a finished material that would normally be disposed of as solid  
5 waste, having completed its life cycle as a consumer item. "Post-consumer waste" does not include  
6 manufacturing waste.

7 (v) "Price agreement" means a public contract for the procurement of goods or services at a set  
8 price with:

9 (A) No guarantee of a minimum or maximum purchase; or

10 (B) An initial order or minimum purchase combined with a continuing contractor obligation to  
11 provide goods or services in which the contracting agency does not guarantee a minimum or maxi-  
12 mum additional purchase.

13 (w) "Procurement" means the act of purchasing, leasing, renting or otherwise acquiring goods  
14 or services. "Procurement" includes each function and procedure undertaken or required to be  
15 undertaken by a contracting agency to enter into a public contract, administer a public contract and  
16 obtain the performance of a public contract under the Public Contracting Code.

17 (x) "Proposer" means a person that submits a proposal in response to a request for proposals.

18 (y) "Public body" has the meaning given that term in ORS 174.109.

19 (z) "Public contract" means a sale or other disposal, or a purchase, lease, rental or other ac-  
20 quisition, by a contracting agency of personal property, services, including personal services, public  
21 improvements, public works, minor alterations, or ordinary repair or maintenance necessary to pre-  
22 serve a public improvement. "Public contract" does not include grants.

23 (aa) "Public contracting" means procurement activities described in the Public Contracting Code  
24 relating to obtaining, modifying or administering public contracts or price agreements.

25 (bb) "Public Contracting Code" or "code" means ORS chapters 279A, 279B and 279C.

26 (cc) "Public improvement" means a project for construction, reconstruction or major renovation  
27 on real property by or for a contracting agency. "Public improvement" does not include:

28 (A) Projects for which no funds of a contracting agency are directly or indirectly used, except  
29 for participation that is incidental or related primarily to project design or inspection; or

30 (B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a  
31 public improvement.

32 (dd) "Public improvement contract" means a public contract for a public improvement. "Public  
33 improvement contract" does not include a public contract for emergency work, minor alterations,  
34 or ordinary repair or maintenance necessary to preserve a public improvement.

35 (ee) "Recycled material" means any material that would otherwise be a useless, unwanted or  
36 discarded material except for the fact that the material still has useful physical or chemical prop-  
37 erties after serving a specific purpose and can, therefore, be reused or recycled.

38 (ff) "Recycled oil" means used oil that has been prepared for reuse as a petroleum product by  
39 refining, rerefining, reclaiming, reprocessing or other means, provided that the preparation or use  
40 is operationally safe, environmentally sound and complies with all laws and regulations.

41 (gg) "Recycled paper" means a paper product with not less than:

42 (A) Fifty percent of its fiber weight consisting of secondary waste materials; or

43 (B) Twenty-five percent of its fiber weight consisting of post-consumer waste.

44 (hh) "Recycled PETE" means post-consumer polyethylene terephthalate material.

45 (ii) "Recycled product" means all materials, goods and supplies, not less than 50 percent of the

1 total weight of which consists of secondary and post-consumer waste with not less than 10 percent  
2 of its total weight consisting of post-consumer waste. "Recycled product" includes any product that  
3 could have been disposed of as solid waste, having completed its life cycle as a consumer item, but  
4 otherwise is refurbished for reuse without substantial alteration of the product's form.

5 (jj) "Secondary waste materials" means fragments of products or finished products of a manu-  
6 facturing process that has converted a virgin resource into a commodity of real economic value.  
7 "Secondary waste materials" includes post-consumer waste. "Secondary waste materials" does not  
8 include excess virgin resources of the manufacturing process. For paper, "secondary waste  
9 materials" does not include fibrous waste generated during the manufacturing process such as fibers  
10 recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips,  
11 sawdust or other wood residue from a manufacturing process.

12 (kk) "Services" mean services other than personal services designated under ORS 279A.055, ex-  
13 cept that, for state contracting agencies with procurement authority under ORS 279A.050 or  
14 279A.140, "services" includes personal services as designated by the state contracting agencies.

15 (LL) "Special government body" has the meaning given that term in ORS 174.117.

16 (mm) "State agency" means the executive department, except the Secretary of State and the  
17 State Treasurer in the performance of the duties of their constitutional offices.

18 (nn) "State contracting agency" means an executive department entity authorized by law to  
19 conduct a procurement.

20 (oo) "State government" has the meaning given that term in ORS 174.111.

21 (pp) "Used oil" has the meaning given that term in ORS 459A.555.

22 (qq) "Virgin oil" means oil that has been refined from crude oil and that has not been used or  
23 contaminated with impurities.

24 (2) Other definitions appearing in the Public Contracting Code and the sections in which they  
25 appear are:

- 26
- 27 [(a) "Adequate" .....ORS 279C.305]
- 28 [(b) (a) "Administering contracting
- 29 agency" .....ORS 279A.200
- 30 [(c) (b) "Affirmative action" .....ORS 279A.100
- 31 [(d) (c) "Architect" .....ORS 279C.100
- 32 [(e) (d) "Architectural,
- 33 engineering, photogram-
- 34 metric mapping,
- 35 transportation planning
- 36 or land surveying
- 37 services" .....ORS 279C.100
- 38 [(f) (e) "Bid documents" .....ORS 279C.400
- 39 [(g) (f) "Bidder" .....ORS 279B.415
- 40 [(h) (g) "Bids" .....ORS 279C.400
- 41 [(i) (h) "Brand name" .....ORS 279B.405
- 42 [(j) (i) "Brand name or equal
- 43 specification" .....ORS 279B.200
- 44 [(k) (j) "Brand name
- 45 specification" .....ORS 279B.200

1	[(L)] (k)	“Class special	
2		procurement”	.....ORS 279B.085
3	[(m)] (L)	“Consultant”	.....ORS 279C.115
4	[(n)] (m)	“Contract-specific	
5		special procurement”	.....ORS 279B.085
6	[(o)] (n)	“Cooperative	
7		procurement”	.....ORS 279A.200
8	[(p)] (o)	“Cooperative procurement	
9		group”	.....ORS 279A.200
10	[(q)] (p)	“Donee”	.....ORS 279A.250
11	[(r)] (q)	“Engineer”	.....ORS 279C.100
12	[(s)] (r)	“Findings”	.....ORS 279C.330
13	[(t)] (s)	“Fire protection	
14		equipment”	.....ORS 279A.190
15	[(u)] (t)	“Fringe benefits”	.....ORS 279C.800
16	[(v)] (u)	“Funds of a public	
17		agency”	.....ORS 279C.810
18	[(w)] (v)	“Good cause”	.....ORS 279C.585
19	[(x)] (w)	“Good faith dispute”	.....ORS 279C.580
20	[(y)] (x)	“Goods”	.....ORS 279B.115
21	[(z)] (y)	“Housing”	.....ORS 279C.800
22	[(aa)] (z)	“Interstate cooperative	
23		procurement”	.....ORS 279A.200
24	[(bb)] (aa)	“Invitation to bid”	.....ORS 279B.005
25		.....and 279C.400	
26	[(cc)] (bb)	“Joint cooperative	
27		procurement”	.....ORS 279A.200
28	[(dd)] (cc)	“Labor dispute”	.....ORS 279C.650
29	[(ee)] (dd)	“Land surveyor”	.....ORS 279C.100
30	[(ff)] (ee)	“Legally flawed”	.....ORS 279B.405
31	[(gg)] (ff)	“Locality”	.....ORS 279C.800
32	[(hh)] (gg)	“Nonprofit	
33		organization”	.....ORS 279C.810
34	[(ii)] (hh)	“Nonresident bidder”	.....ORS 279A.120
35	[(jj)] (ii)	“Not-for-profit	
36		organization”	.....ORS 279A.250
37	[(kk)] (jj)	“Original contract”	.....ORS 279A.200
38	[(LL)] (kk)	“Permissive cooperative	
39		procurement”	.....ORS 279A.200
40	[(mm)] (LL)	“Person”	.....ORS 279C.500
41		.....and 279C.815	
42	[(nn)] (mm)	“Personal services”	.....ORS 279C.100
43	[(oo)] (nn)	“Photogrammetric	
44		mapping”	.....ORS 279C.100
45	[(pp)] (oo)	“Photogrammetrist”	.....ORS 279C.100

1	[(qq)]	<b>(pp)</b>	“Prevailing rate of	
2			wage” .....	ORS 279C.800
3	[(rr)]	<b>(qq)</b>	“Procurement	
4			description” .....	ORS 279B.005
5	[(ss)]	<b>(rr)</b>	“Property” .....	ORS 279A.250
6	[(tt)]	<b>(ss)</b>	“Public agency” .....	ORS 279C.800
7	[(uu)]	<b>(tt)</b>	“Public contract” .....	ORS 279A.190
8	[(vv)]	<b>(uu)</b>	“Public works” .....	ORS 279C.800
9	[(ww)]	<b>(vv)</b>	“Purchasing contracting	
10			agency” .....	ORS 279A.200
11	[(xx)]	<b>(ww)</b>	“Regularly organized fire	
12			department” .....	ORS 279A.190
13	[(yy)]	<b>(xx)</b>	“Related services” .....	ORS 279C.100
14	[(zz)]	<b>(yy)</b>	“Request for	
15			proposals” .....	ORS 279B.005
16	[(aaa)]	<b>(zz)</b>	“Resident bidder” .....	ORS 279A.120
17	[(bbb)]	<b>(aaa)</b>	“Responsible bidder” .....	ORS 279A.105
18			.....and	279B.005
19	[(ccc)]	<b>(bbb)</b>	“Responsible	
20			proposer” .....	ORS 279B.005
21	[(ddd)]	<b>(ccc)</b>	“Responsive bid” .....	ORS 279B.005
22	[(eee)]	<b>(ddd)</b>	“Responsive	
23			proposal” .....	ORS 279B.005
24	[(fff)]	<b>(eee)</b>	“Retainage” .....	ORS 279C.550
25	[(ggg)]	<b>(fff)</b>	“Special	
26			procurement” .....	ORS 279B.085
27	[(hhh)]	<b>(ggg)</b>	“Specification” .....	ORS 279B.200
28	[(iii)]	<b>(hhh)</b>	“State agency” .....	ORS 279A.250
29	[(jjj)]	<b>(iii)</b>	“Substantial	
30			completion” .....	ORS 279C.465
31	[(kkk)]	<b>(jjj)</b>	“Surplus property” .....	ORS 279A.250
32	[(LLL)]	<b>(kkk)</b>	“Transportation	
33			planning services” .....	ORS 279C.100
34	[(mmm)]	<b>(LLL)</b>	“Unnecessarily	
35			restrictive” .....	ORS 279B.405

**SECTION 5. Section 3 of this 2017 Act and the amendments to ORS 279A.010 and 279C.305 by sections 1 and 4 of this 2017 Act apply to procurements that a contracting agency first advertises or otherwise solicits or, if the contracting agency does not advertise or solicit the procurement, to a public contract that a contracting agency enters into on or after the operative date specified in section 6 of this 2017 Act.**

**SECTION 6. (1) Section 3 of this 2017 Act and the amendments to ORS 279A.010 and 279C.305 by sections 1 and 4 of this 2017 Act become operative on January 1, 2018.**

**(2) The Commissioner of the Bureau of Labor and Industries, the Attorney General, the Director of the Oregon Department of Administrative Services, the Director of Transportation or a contracting agency that adopts rules under ORS 279A.065 may adopt rules and take**

1 any other action before the operative date specified in subsection (1) of this section that is  
2 necessary to enable the commissioner, the Attorney General, the director or the contracting  
3 agency to exercise all of the duties, functions and powers conferred on the commissioner,  
4 the Attorney General, the director or the contracting agency by section 3 of this 2017 Act  
5 and the amendments to ORS 279A.010 and 279C.305 by section 1 and 4 of this 2017 Act.

6 SECTION 7. This 2017 Act takes effect on the 91st day after the date on which the 2017  
7 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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