

HB 2375: Contract Accountability

Oregon taxpayers expect accountability and efficiency in how public funds are used, and they have sent us here in order to ensure that their money is used in the most effective way possible.

When it comes to how public funds are spent on contracts, meeting that obligation requires adequate oversight – and accountability. This bill moves us toward that goal.

As legislators, we get briefings about projects that have gone awry. And some of those biggest botched projects that have landed on the front page of the newspaper. By the time these project failures have come to light, it's already too late.

We need to improve our track record on contracts by starting off on the right foot – by having solid contract language in place to protect the public interest –and we need to do a better job of managing contracts.

Background – HB 4122 (2014)

The legislature passed new contract accountability measures last year, specifically targeting information technology. ¹ This bill continues this work: It's about all contracts, not just IT, and speaks to how contracts are managed *after* writing and signing the contract. Over the past half year, I've met on a number of occasions with representatives of state agencies, with the experts in purchasing, contract law, and auditing. They've provided some good information and perspective on what has happened in the past, and how to improve the prospect for the future.

Taking the next step

This bill puts in place a process to add safeguards and measures to increase accountability: standardization and oversight they need to keep things on track.

This bill addresses those two objectives, raising the bar for both drafting contracts, and for managing them. The two major elements of this bill: It adds an element of uniformity in contract language that currently doesn't exist, and requires training for administrators to ensure that they are adequately prepared to manage expensive and significant projects.

So, there are several distinct elements to our proposal:

1. Better contracts. Dozens of agencies design and write their own contracts, with varying skill and style and content. In fact, there are over 400 different forms that people are using; last year, DOJ reviewed over 3,000 contracts, written from different forms or templates. This bill will require agencies to start with standard language approved by experts in purchasing and in the law. This bill requires state agencies to use standard forms and templates approved by the Department of Administrative Services or Department of Justice. Over time we'll have better contracts, and it should also save time and money for departments processing contracts.

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It will likely also help Oregon businesses. For vendors, it's hard to respond to procurements – requests for proposals or bids – because the requirements, are different from agency to agency. It's a steep learning curve to wade through the fine print. And even in sections billed as standard, boiler-plate language is organized differently and comes in different language from one department to another. With this bill, bringing standardization to the process, it will be easier for business to deal with us, and to bid on state contracts.

2. Better contract administration: Require training for contract administrators. There are many state employees who end up managing contracts as a part of their daily job. This bill will make sure that they have the training and the resources to appropriately manage those contracts, to be sure the service or product is living up to expectations.

Other features

3. Agency head must sign off and acknowledge awareness of DOJ and DAS recommendations to improve contract to protect public interest.
4. Instructs DAS to develop best practices, and also to consider whether a system of peer review would bring additional expertise and improve outcomes.

Conclusion

This bill provides two key ways for the legislature – and the public - to get better oversight and better results: better contracts, and better contract administration.

From my floor speech last year, on the bill to establish more oversight and quality assurance review, and still relevant today:

“There will be oversight through third party quality assurance contracts. We are telling project managers and agencies: we’re watching. And we’ll make sure there will be more eyes on your project. No more glossing over careful review and critical observations. No more ignoring warning signs and hoping for the best. This state will do better.”

ⁱ HB 4122 from 2014 addressed the design and implementation of new Information Technology (IT) projects. It added a layer of mandatory oversight that didn't exist, and applied only to agencies with delegated authority to do their own purchasing.

1. Defined *when* a project must have a separate, third party quality assurance review;
2. Got copies of the quality assurance (QA) report to people in key positions so that someone else would be reading it, someone in a position to do something with it.
3. Kept tax evaders from securing contracts for these projects.