

# Enrolled Senate Bill 1006

Sponsored by COMMITTEE ON RULES

CHAPTER .....

AN ACT

Relating to award of public contracts based on competitive bids; creating new provisions; and amending ORS 279C.375.

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

**SECTION 1.** ORS 279C.375 is amended to read:

279C.375. (1) After bids are opened and a determination is made that a public improvement contract is to be awarded, the contracting agency shall award the contract to the lowest responsible bidder.

(2) In determining the lowest responsible bidder, a contracting agency shall **do all of the following:**

(a) Check the list created by the Construction Contractors Board under ORS 701.227 for bidders who are not qualified to hold a public improvement contract.[: and]

(b) Determine whether the [prospective] bidder has met the standards of responsibility. In making the determination, the contracting agency shall consider whether a [prospective] bidder has:

(A) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain the resources and expertise, necessary to [indicate the capability of the prospective bidder to] meet all contractual responsibilities.[:]

(B) A satisfactory record of performance. The contracting agency shall document the record of performance of a [prospective] bidder if the contracting agency finds the [prospective] bidder not to be responsible under this subparagraph.[:]

(C) A satisfactory record of integrity. The contracting agency shall document the record of integrity of a [prospective] bidder if the contracting agency finds the [prospective] bidder not to be responsible under this subparagraph.[:]

(D) Qualified legally to contract with the contracting agency.[: and]

(E) Supplied all necessary information in connection with the inquiry concerning responsibility. If a [prospective] bidder fails to promptly supply information requested by the contracting agency concerning responsibility, the contracting agency shall base the determination of responsibility upon any available information, or may find the [prospective] bidder not to be responsible.

**(c) Document the contracting agency's compliance with the requirements of paragraphs (a) and (b) of this subsection in substantially the following form:**

---

### RESPONSIBILITY DETERMINATION FORM

**Project Name:** \_\_\_\_\_

**Bid Number:** \_\_\_\_\_

Business Entity Name: \_\_\_\_\_  
CCB License Number: \_\_\_\_\_  
Form Submitted By (Contracting Agency): \_\_\_\_\_  
Form Submitted By (Contracting Agency Representative's Name): \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

(The contracting agency must submit this form with attachments, if any, to the Construction Contractors Board within 30 days after the date of contract award.)

The contracting agency has (check all of the following):

Checked the list created by the Construction Contractors Board under ORS 701.227 for bidders who are not qualified to hold a public improvement contract.

Determined whether the bidder has met the standards of responsibility. In so doing, the contracting agency has considered whether the bidder:

Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities.

Has a satisfactory record of performance.

Has a satisfactory record of integrity.

Is qualified legally to contract with the contracting agency.

Has supplied all necessary information in connection with the inquiry concerning responsibility.

Determined the bidder to be (check one of the following):

Responsible under ORS 279C.375 (2)(a) and (b).

Not responsible under ORS 279C.375 (2)(a) and (b).

(Attach documentation if the contracting agency finds the bidder not to be responsible.)

---

(d) Submit the form described in paragraph (c) of this subsection, with any attachments, to the Construction Contractors Board within 30 days after the date the contracting agency awards the contract.

(3) The successful bidder shall:

(a) Promptly execute a formal contract; and

(b) Execute and deliver to the contracting agency a performance bond and a payment bond as described in ORS 279C.380.

**SECTION 2.** The amendments to ORS 279C.375 by section 1 of this 2005 Act apply only to public contracts first advertised, but if not advertised then entered into, on or after the effective date of this 2005 Act.

**Passed by Senate April 25, 2005**

**Repassed by Senate June 16, 2005**

.....  
Secretary of Senate

.....  
President of Senate

**Passed by House June 13, 2005**

.....  
Speaker of House

**Received by Governor:**

.....M,....., 2005

**Approved:**

.....M,....., 2005

.....  
Governor

**Filed in Office of Secretary of State:**

.....M,....., 2005

.....  
Secretary of State