



**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 170  
**OREGON STATE TREASURY**

**FILED**

11/04/2025 8:34 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Amending OAR 170-002-0105 to clarify the State Treasurer's procurement authority

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/22/2025 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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**NEED FOR THE RULE(S)**

The Department of Justice recommended the amendment to avoid any perceived conflict between the Treasurer's rule and the statutory authority granted in ORS 279A.025(2)(p) and 279A.200 to 279A.225. The definition of Public Contracting Code has been amended to delete a reference to the Department of Administrative Services administrative rules because the department does not have procurement authority over the State Treasurer.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE**

ORS chapter 279A: [https://www.oregonlegislature.gov/bills\\_laws/ors/ors279A.html](https://www.oregonlegislature.gov/bills_laws/ors/ors279A.html)

**STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE**

The amendment clarifies the Treasurer's authority to conduct procurements and does not impact, directly or indirectly, racial equality.

**FISCAL AND ECONOMIC IMPACT:**

The amendment does not add any new administrative requirements for the Treasurer. Accordingly, the amendment does not have a fiscal or economic impact.

**COST OF COMPLIANCE:**

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

The amendment does not add any new administrative requirements for state agencies, unit of local governments, or members of the public. Accordingly, the amendment does not impose a cost of compliance for state agencies, unit of

local governments, or members of the public., including small businesses.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Because the amendment clarifies the Treasurer's authority to conduct procurements and participate in, sponsor, conduct or administer cooperative procurements based on advice of legal counsel, the bill does not impact small business. Accordingly, small businesses were not involved in the development of the amendment.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The amendment is the result of advice and review of the Department of Justice. Accordingly, the Treasurer did not convene an advisory committee.

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RULES PROPOSED:

170-002-0100, 170-002-0105

AMEND: 170-002-0100

RULE SUMMARY: Amends the definition of "Public Contracting Code" to delete the reference to the Department of Administrative Services administrative rules.

CHANGES TO RULE:

170-002-0100

Definitions

The follow definitions apply to OAR 170-002-0100 through 170-002-0300:¶

- (1) "Award" means the Treasurer's communication to an Offeror of the Treasurer's intent to enter into a Contract with the Offeror.¶
- (2) "Closing" means the date and time specified in a Contract solicitation as the deadline for submitting Offers.¶
- (3) "Contract" means a legally binding written agreement between the Treasurer and Offeror for the purchase and sale of Goods and Services or for Exempt goods, services or other transactions.¶
- (4) "Contractor" means a person with whom the Treasurer enters into a Contract.¶
- (5) "Days" means calendar days.¶
- (6) "Exempt" means the Public Contracting Code does not apply.¶
- (7) "Goods and Services" has the meaning given in ORS 279B.010 and as clarified by OAR 170-002-0100.¶
- (8) "Offer" means a bid, proposal, quote or other writing or submission through which a person offers, Goods and Services, or Exempt goods, services, investments or other transactions, for a price or with certain qualifications to the Treasurer or otherwise responds to a Procurement.¶
- (9) "Offeror" means a person who submits an Offer.¶
- (10) "Procurement" means the process of soliciting Offers with the intention that there is an Award by the Treasurer of one or more Contracts or identification of potentially eligible Contractors at the end of the process.¶
- (11) "Procurement Officer" means any staff of the Treasurer whom the Treasurer has employed, or to whom the State Treasurer has delegated authority, to carry out Procurements, Contract administration and related activities.¶
- (12) "Public Contracting Code" or "Code" means ORS chapters 279A, 279B, and 279C, ~~and rules promulgated by the Department of Administrative Services to carry out the Code.~~¶
- (13) "Responsible" means the Treasurer reasonably believes that the Offeror would be a reliable, competent, responsible, and an accountable and a legally authorized Contractor.¶
- (14) "Solicitation Document" means a written, including electronically transmitted, inquiry issued to one or more persons soliciting Offers.¶
- (15) "Treasurer" means the Office of the State Treasurer.

Statutory/Other Authority: ORS 279A.065

Statutes/Other Implemented: ORS 279A.065

AMEND: 170-002-0105

RULE SUMMARY: Clarifies the Treasurer's authority to determine whether a procurement is exempt from the Public Contracting Code.

CHANGES TO RULE:

170-002-0105

Authority and Applicability of the Public Contracting Code

(1) Procurements and the resulting Contracts are Exempt, except for the Procurement of, and Contracts for, the Goods and Services as described in paragraph 2 of this rule.¶

(2) Goods and Services that are not Exempt and are subject to the Procurement methods required under ORS chapter 279B generally are:¶

(a) Services that do not require personalized or specialized skills, knowledge, or expertise related to banking, borrowing, ~~or~~ investments or to the Treasurer's exercise of the other powers of that office prescribed in ORS 178.010 to 178.090 and 276A.242 and ORS chapters 286A, 287A, 289, 293, 294 and 295;¶

(b) Goods and services that do not require the exercise of professional judgment or management discretion related to banking, borrowing, ~~or~~ investments or to the Treasurer's exercise of the other powers of that office prescribed in ORS 178.010 to 178.090 and 276A.242 and ORS chapters 286A, 287A, 289, 293, 294 and 295;¶

(c) Services that are common to any entity that carries on a business such as janitorial, repair, delivery, mail processing, and information technology services that are not specialized for banking, borrowing, or investing and may be used for any type of business;¶

(d) Goods that are common to any entity that carries on a business such as furniture, office equipment and supplies, and computers and related equipment that are not specialized for banking, borrowing, or investing and may be used for any type of business.¶

(3) All other Procurements conducted by the Treasurer are Exempt. If goods or services have some of the attributes described in paragraph 2, but also fall within the scope of contracts described in ORS 279A.025 that are Exempt, the Treasurer, in its sole discretion, will specify whether a Procurement or a Contract for such goods and services is Exempt.¶

(4) Unless otherwise provided under this section, the Contracting and Procurement administrative rules adopted by the Department of Administrative Services under OAR chapter 125 do not apply to procurements conducted and contracts entered into by the State Treasurer.¶

(5) The Treasurer may provide any part or all of an education or training program, or may approve any part or all of an education or training program provided by the Department of Administrative Services or other provider, that meets the standards and requirements established by the Treasurer under ORS 279A.159(3).

Statutory/Other Authority: ORS 279A.065

Statutes/Other Implemented: ORS 279A.025(2)(p), ORS 279A.050(5), ORS 279A.159(3)