

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 141, As Amended

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO PUBLIC PROCUREMENT; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 67-2332A, IDAHO CODE, TO ESTABLISH
3 PROVISIONS REGARDING INTERAGENCY CONTRACTS WITH STATE INSTITUTIONS OF
4 HIGHER EDUCATION; AMENDING SECTION 67-9219, IDAHO CODE, TO PROVIDE THAT
5 CERTAIN CONTRACTS WILL BE CONSIDERED QUALIFYING CONTRACTS FOR PURPOSES
6 OF A REPORT; AND AMENDING SECTION 67-9221, IDAHO CODE, TO PROVIDE THAT
7 THERE WILL NOT BE NONCOMPETITIVE PROCUREMENT FROM STATE INSTITUTIONS OF
8 HIGHER EDUCATION AND TO PROVIDE EXCEPTIONS.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Chapter 23, Title 67, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 67-2332A, Idaho Code, and to read as follows:

14 67-2332A. INTERAGENCY CONTRACTS WITH STATE INSTITUTIONS OF HIGHER
15 EDUCATION. (1) Notwithstanding the provisions of section 67-2332, Idaho
16 Code, no agency may enter into a noncompetitive contract with a state insti-
17 tution of higher education, unless authorized pursuant to section 67-9221,
18 Idaho Code. Contracts between such entities must be competitively solicited
19 pursuant to the provisions of the state procurement act, chapter 92, title
20 67, Idaho Code. However, the solicitation may limit competition to only the
21 state institutions of higher education.

22 (2) The provisions of subsection (1) of this section do not apply to
23 procurements of surplus property governed by other state or federal law.

24 (3) As used in this section:

25 (a) "Agency" has the same meaning as provided in section 67-9203(3),
26 Idaho Code.

27 (b) "State institution of higher education" means Boise state univer-
28 sity, Idaho state university, Lewis-Clark state college, or the univer-
29 sity of Idaho.

30 SECTION 2. That Section 67-9219, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 67-9219. CONTRACT OVERSIGHT. (1) Subject to approval of the director,
33 the administrator shall formulate rules that establish policies and proce-
34 dures relating to the administration, management, monitoring and oversight
35 of contracts entered by an agency.

36 (2) Any officer, institution or entity that is excluded from the def-
37 inition of "agency" under section 67-9203, Idaho Code, but that may enter
38 contracts obligating the state, shall establish policies and procedures re-
39 lating to the administration, management, monitoring and other oversight of
40 such contracts.

1 (3) Policies and procedures established pursuant to subsection (1) or
 2 (2) of this section shall define the roles and responsibilities of those per-
 3 sons assigned to administer, manage, monitor or otherwise oversee state con-
 4 tracts.

5 (4) Each officer, agency, institution or entity that may enter con-
 6 tracts obligating the state, regardless of whether such officer, agency,
 7 institution or entity is included in the definition of "agency" under sec-
 8 tion 67-9203, Idaho Code, shall make an annual report to the legislature on
 9 all qualifying contracts entered into by the officer, agency, institution or
 10 entity during the previous year. The report shall be made on the first day of
 11 the regular legislative session and shall include the following information
 12 for each contract:

- 13 (a) The amount;
- 14 (b) The duration;
- 15 (c) The parties; and
- 16 (d) The subject.

17 (5) For purposes of this section, a qualifying contract is one entered
 18 into with a state institution of higher education pursuant to section
 19 67-2332A, Idaho Code, or one valued at more than one million five hundred
 20 thousand dollars (\$1,500,000) over the duration of the contract and that is:

- 21 (a) Awarded as a result of a sole source or other noncompetitive pro-
 22 curement pursuant to section 67-9221, Idaho Code;
- 23 (b) A multiyear contract; or
- 24 (c) Part of a multiple award.

25 SECTION 3. That Section 67-9221, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 67-9221. NONCOMPETITIVE AND EMERGENCY PROCUREMENTS. (1) The adminis-
 28 trator may allow noncompetitive procurements when:

- 29 (a) A particular savings to the state may be obtained through the use of
 30 educational discounts, reverse public auctions or acquisition of fed-
 31 eral surplus or excess property;
- 32 (b) The property is available only from a sole source;
- 33 (c) Immediate delivery of the property is required by public exigencies
 34 and the administrator has declared that an emergency exists; or
- 35 (d) Other circumstances justify a noncompetitive procurement in the
 36 opinion of the director and the administrator.

37 (2) Prior to procuring property from a sole source, the administrator
 38 shall post notice of a sole source procurement, unless the property is re-
 39 quired for a life-threatening situation or a situation that is immediately
 40 detrimental to the public welfare or property. The notice shall be posted in
 41 a conspicuous manner as prescribed by rule.

42 (3) When the administrator has declared an emergency, payment vouchers
 43 may be issued on behalf of an agency without sufficient funds to make an emer-
 44 gency procurement. A payment voucher shall include a statement of justifi-
 45 cation for the emergency procurement.

46 (4) There will not be noncompetitive procurement from a state insti-
 47 tution of higher education, as defined in section 67-2332A, Idaho Code, un-
 48 less:

- 49 (a) The contract meets the following criteria:

- 1 (i) It is for less than ten thousand dollars (\$10,000); and
- 2 (ii) It is either not a contract for services or it is a contract
- 3 for services related to lodging or events;
- 4 (b) The contract is between state institutions of higher education; or
- 5 (c) The administrator makes a written determination that the circum-
- 6 stances of the acquisition are consistent with the provisions of sub-
- 7 section (1) of this section.