

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 542

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO PREQUALIFICATION OF CONTRACTORS ON STATE PROJECTS; AMENDING  
2 SECTION 67-5711C, IDAHO CODE, TO PROVIDE FOR A CONTRACTOR'S PARTIC-  
3 IPATION IN AN APPRENTICE PROGRAM REGISTERED WITH THE UNITED STATES  
4 DEPARTMENT OF LABOR AND TO MAKE TECHNICAL CORRECTIONS.  
5

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

7 SECTION 1. That Section 67-5711C, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BID-  
10 DING. (1) All construction contracts for public works shall be awarded to  
11 the lowest responsible and responsive bidder after receipt of competitive  
12 sealed bidding except as otherwise provided in sections 67-5711B, 67-5711D  
13 and 67-5713, Idaho Code.

14 (2) An invitation for bids shall be issued and shall include a project  
15 description and all contractual terms and conditions applicable to the pub-  
16 lic works.

17 (3) Adequate public notice of the invitation for bids shall be given at  
18 least fourteen (14) days prior to the date set forth therein for the opening  
19 of bids. Such notice shall include publication at least fourteen (14) days  
20 prior to bid opening in a newspaper of general circulation in the area where  
21 the work is located.

22 (4) When prequalification is deemed by the department and by the re-  
23 spective state agency to be in the best interest of the state, competitive  
24 bidding procedures shall be open only to licensed public works contractors  
25 that meet preliminary supplemental qualifications. The solicitation for  
26 bids in a prequalified bidder public works project shall consist of two (2)  
27 stages, an initial stage for identifying prequalified contractors, either  
28 prime or specialty contractors, followed by a stage during which bid prices  
29 will be accepted only from prequalified contractors. Notice of the prequal-  
30 ification stage shall be given in the same manner that notice of open com-  
31 petitive bidding is provided. Prequalification standards must be premised  
32 upon demonstrated technical competence, experience constructing similar  
33 facilities, prior experience with the state, past performance (related to  
34 quality, workmanship and timeliness), reliability, safety record, avail-  
35 able nonfinancial resources, equipment and personnel as they relate to the  
36 subject project, ~~and~~ overall performance history based upon a contractor's  
37 entire body of work, and the contractor's participation in an apprentice-  
38 ship program registered with the United States department of labor office  
39 of apprenticeship. Any request for qualifications must include the stan-  
40 dards for evaluating the qualifications of prospective bidders. Licensed  
41 contractors desiring to be prequalified to bid on a project must submit a  
42 written response to a request for qualifications. After a review of quali-

1    fication submittals, licensed contractors that meet the prequalification  
2    standards shall be so notified, and licensed contractors that do not meet  
3    the prequalification standards shall also be so notified. Thereafter, bids  
4    may be solicited from contractors that meet the prequalification standards.  
5    The department may promulgate rules or develop procedures to implement the  
6    prequalification process.

7       (5) Bids shall be opened publicly at the time and place designated in  
8    the invitation for bids. The amount of each bid and such other relevant in-  
9    formation as may be specified by rules, together with the name of each bid-  
10   der, shall be entered on a record and the record shall be open to public in-  
11   spection. After the time of the award, all bids and bid documents shall be  
12   open to public inspection in accordance with the provisions of chapter 1, ti-  
13   tle 74, and section 67-9215, Idaho Code.

14       (6) With respect to a project having a written cost estimate of greater  
15   than twenty-five thousand dollars (\$25,000) but less than the public works  
16   limit established in section 67-5711, Idaho Code, the agency, if it does not  
17   perform the work with existing physical plant staff, must award a written  
18   contract to the lowest responsible and responsive bidder after soliciting at  
19   least three (3) documented informal bids from contractors licensed in Idaho  
20   to perform public works contracts, if reasonably available. Adequate pub-  
21   lic notice of the invitation for informal bids shall be given at least seven  
22   (7) days prior to the date set forth therein for the receipt of the infor-  
23   mal bids. Such notice may include publication at least seven (7) days prior  
24   to bid opening in a newspaper of general circulation in the area where the  
25   work is located; or the agency may advertise the invitation for bids in ap-  
26   propriate trade journals, and otherwise notify persons believed to be inter-  
27   ested in the award of a contract. Informal bids must be submitted by the con-  
28   tractor in writing in response to a prepared written document describing the  
29   project's scope of work in sufficient detail so as to enable a contractor fa-  
30   miliar with such work to prepare a responsible bid. Nothing herein exempts  
31   an agency from the responsibility of utilizing formal plans and specifica-  
32   tions if the work involves the public health or safety as described in chap-  
33   ters 3 and 12, title 54, Idaho Code. The agency must document receipt of the  
34   informal bids in the project file.

35       (7) Any personal property including goods, parts, supplies and equip-  
36   ment which is to be supplied or provided by a state agency for use in any pub-  
37   lic work, project, or preventive maintenance programs, whether the public  
38   work, project, or preventive maintenance program is constructed, undertaken  
39   or performed by agency in-house personnel, or by delegation pursuant to sec-  
40   tion 67-5710A, Idaho Code, or otherwise provided or supplied by the agency  
41   to a contractor, the personal property, goods, parts, supplies or equip-  
42   ment supplied or provided by the agency must be purchased or procured by the  
43   agency through the division of purchasing in accordance with the Idaho Code.