

IN THE SENATE

SENATE BILL NO. 1042

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO PUBLIC CONTRACTS; AMENDING SECTION 67-2320, IDAHO CODE, TO RE-
VISE PROVISIONS REGARDING CERTAIN PROFESSIONAL SERVICE CONTRACTS.

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

SECTION 1. That Section 67-2320, Idaho Code, be, and the same is hereby
amended to read as follows:

67-2320. PROFESSIONAL SERVICE CONTRACTS WITH DESIGN PROFESSIONALS,
CONSTRUCTION MANAGERS, AND PROFESSIONAL LAND SURVEYORS. (1) Notwithstand-
ing any other provision of law to the contrary, it shall be the policy of this
state that all public agencies and political subdivisions of the state of
Idaho and their agents shall make selections for professional engineering,
architectural, landscape architecture, construction management, and pro-
fessional land surveying services, including services by persons licensed
pursuant to chapters 3, 12, 30, and 45, title 54, Idaho Code, on the basis of
qualifications and demonstrated competence and shall negotiate contracts
or agreements for such services ~~on the basis of demonstrated competence and
qualifications for the type of services required at fair and reasonable
prices.~~

(2) In carrying out this policy, public agencies and political subdivi-
sions of the state shall use the following minimum guidelines in securing
contracts for engineering, architectural, landscape architecture, con-
struction management, and land surveying services on projects for which
the professional service fee is anticipated to exceed the total sum of
~~twenty-five~~ fifty thousand dollars (\$250,000), excluding professional
services contracts previously awarded for an associated or phased project,
and for which the expenditure is otherwise exempt from the bidding process
provided by law. To implement this policy, the public agency and political
subdivisions shall:

(a) Provide a general description of the services being solicited and
eEncourage persons or firms engaged in the services being solicited to
submit statements of qualifications and past performance data;

(b) Establish and make available to the public a request for qualifi-
cations that includes the criteria and the procedures to be used for
the measurable scoring, ranking, and selection of qualified persons or
firms to perform such services;

(c) Select the persons or firms whom the public agency or political
subdivision determines to be best qualified to provide the required
services, ranked in order of preference, After issuing a request for
qualifications, score and rank the responding persons or firms based
on their qualifications and demonstrated competence pursuant to the
public agency's or political subdivision's established criteria and
procedures. The list of ranked respondents, including the scoring

1 used to develop the ranking, shall be made available to the public.
 2 Some examples of selection criteria for consideration may include but
 3 are not limited to: a description of the firm, including location
 4 and longevity; project manager and key staff experience, education,
 5 and training; experience with similar projects; specific approach to
 6 project or assignment; proposed schedule, if applicable; and quality
 7 control procedures;

8 (d) Select the persons or firms whom the public agency or political sub-
 9 division determines to be the highest-ranked (best qualified) to pro-
 10 vide the required services;

11 (~~e~~) Negotiate with the highest-ranked person or firm for a contract
 12 or an agreement to perform such services at a price determined by the
 13 public agency or political subdivision to be reasonable and fair to the
 14 public after considering the estimated value, the scope, the complex-
 15 ity, schedule, and the nature of the services required;

16 (~~e~~f) When unable to negotiate a satisfactory contract or agreement with
 17 the highest-ranked person or firm, formally terminate negotiations and
 18 undertake negotiations with the next highest-ranked person or firm,
 19 following the procedure prescribed in subsection (2) paragraph (~~e~~) of
 20 this subsection;

21 (~~e~~g) When unable to negotiate a satisfactory contract or agreement with
 22 any of the selected persons or firms, continue with the selection and
 23 negotiation process provided in this subsection and recommence negotiations as de-
 24 scribed in paragraphs (e) and (f) of this subsection until a contract or
 25 agreement is reached or cancel the procurement;

26 (~~e~~h) When a public agencies agency or political subdivisions solicits
 27 proposals a request for qualifications for engineering, architectural,
 28 landscape architecture, construction management, or land surveying
 29 services for which the professional service fee is anticipated to ex-
 30 ceed the total sum of ~~twenty-five~~ fifty thousand dollars (\$250,000),
 31 they it shall publish public notice in the same manner as required for
 32 bidding procurement of public works construction projects. under sec-
 33 tion 67-2805(2), Idaho Code;

34 (~~h~~i) In fulfilling the requirements of subsections (2) paragraphs
 35 (a) through (2)(~~g~~h) of this subsection, a public agency or political
 36 subdivision may limit its selection establish and select from a list
 37 of ~~three (3)~~ two (2) or more persons or firms selected and preapproved
 38 for consideration by the public agency or political subdivision. In
 39 establishing a preapproved list, a public agency or political subdivi-
 40 sion shall publish notice as set forth in subsection (2) paragraph (~~g~~h)
 41 of this subsection. When selecting from such list, no notice shall be
 42 required; and

43 (~~i~~j) In fulfilling the requirements of subsections (2) (a) through (2)
 44 (g) of this section, a public agency or political subdivision may re-
 45 quest information concerning a person's or firm's rates, overhead and
 46 multipliers, if any, however such information shall not be used by the
 47 public agency or political subdivision for the purpose of ranking in or-
 48 der of preference as required in subsection (2) (c) of this section Any
 49 list established under paragraph (i) of this subsection shall remain
 50 valid for a maximum of five (5) years and may be canceled by the public

1 agency or political subdivision prior to the list's expiration if the
 2 public agency or political subdivision determines that cancellation
 3 would be in the public's interest.

4 (3) In securing contracts for engineering, architectural, landscape
 5 architecture, construction management, or land surveying services on
 6 projects for which the professional service fee is anticipated to be less
 7 than the total sum of ~~twenty-five~~ fifty thousand dollars (\$250,000), the
 8 public agency or political subdivision may use the guidelines set forth in
 9 ~~paragraphs (a) through (g) of subsection (2) of this section or establish its~~
 10 ~~own guidelines for selection based on demonstrated competence and qualifi-~~
 11 ~~cations to perform the type of services required, followed by negotiation of~~
 12 ~~the fee at a price determined by the public agency or political subdivision~~
 13 ~~to be fair and reasonable after considering the estimated value, the scope,~~
 14 ~~the complexity, schedule, and the nature of services required.~~

15 (4) When a public agency or political subdivision of the state has pre-
 16 viously awarded a professional services contract to a person or firm for an
 17 associated or phased project, the public agency or political subdivision
 18 may, at its discretion and in accordance with all provisions of section
 19 59-1026, Idaho Code, negotiate an extended or new professional services
 20 contract with that person or firm.

21 (5) ~~(a)~~ For the purposes of this section, 7:

22 (a) ~~"p~~Public agency" ~~shall~~ means the state of Idaho and any depart-
 23 ments, commissions, boards, authorities, bureaus, universities,
 24 colleges, educational institutions, or other state agencies ~~which~~
 25 ~~that~~ have been created by or pursuant to statute other than courts and
 26 their agencies and divisions, and the judicial council and the district
 27 magistrate's magistrates commission; and

28 (b) ~~For the purposes of this section, "p~~Political subdivision" ~~shall~~
 29 ~~means~~ a county, city, airport, airport district, school district,
 30 health district, road district, cemetery district, community college
 31 district, hospital district, irrigation district, sewer district, fire
 32 protection district, any entity defined as a political subdivision un-
 33 der section 6-902, Idaho Code, or any other district or municipality of
 34 any nature whatsoever having the power to levy taxes or assessment, or-
 35 ganized under any general or special law of this state. The enumeration
 36 of certain districts herein in this section shall not be construed to
 37 exclude other districts or municipalities from this definition.