

IN THE SENATE

SENATE BILL NO. 1401

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CONSTRUCTION OF PUBLIC PROJECTS; AMENDING SECTION 67-5711C,  
2 IDAHO CODE, TO REVISE PREQUALIFICATION REQUIREMENTS WHEN THE  
3 DEPARTMENT OF ADMINISTRATION AND THE RESPECTIVE STATE AGENCY DEEM  
4 IT IN THE BEST INTEREST OF THE STATE AND TO REVISE PREQUALIFICATION  
5 PROVISIONS; AND DECLARING AN EMERGENCY.  
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7 Be It Enacted by the Legislature of the State of Idaho:

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

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

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

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

23 (4) When prequalification is deemed by the department and by the  
24 respective state agency to be in the best interest of the state, competitive  
25 bidding procedures shall be open only to licensed public works contractors  
26 that meet preliminary supplemental qualifications. The solicitation for  
27 bids in a prequalified bidder public works project shall consist of two  
28 (2) stages, an initial stage for identifying prequalified contractors,  
29 either prime or specialty contractors, followed by a stage during which  
30 bid prices will be accepted only from prequalified contractors. Notice of  
31 the prequalification stage shall be given in the same manner that notice of  
32 open competitive bidding is provided. Prequalification standards must be  
33 premised upon demonstrated technical competence, experience constructing  
34 similar facilities, prior experience with the state, past performance  
35 (related to quality, workmanship and timeliness), reliability, safety  
36 record, available nonfinancial resources, equipment and personnel as they  
37 relate to the subject project, and overall performance history based upon  
38 a contractor's entire body of work, and other good faith factors that the  
39 department and the respective state agency use to assess the ability of a  
40 bidder to perform fully and in good faith the contract requirements. Any  
41 request for qualifications must include the standards for evaluating the  
42 qualifications of prospective bidders. Licensed contractors desiring to

1 be prequalified to bid on a project must submit a written response to a  
2 request for qualifications. After a review of qualification submittals,  
3 licensed contractors that meet the prequalification standards shall be  
4 notified. Thereafter, bids may be solicited from contractors that meet the  
5 prequalification standards. The department may promulgate rules or develop  
6 procedures to implement the 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  
9 information as may be specified by rules, together with the name of each  
10 bidder, shall be entered on a record and the record shall be open to public  
11 inspection. After the time of the award all bids and bid documents shall  
12 be open to public inspection in accordance with the provisions of sections  
13 9-337 through 9-347 and 67-5725, 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 public  
21 notice of the invitation for informal bids shall be given at least seven (7)  
22 days prior to the date set forth therein for the receipt of the informal bids.  
23 Such notice may include publication at least seven (7) days prior to bid  
24 opening in a newspaper of general circulation in the area where the work is  
25 located; or the agency may advertise the invitation for bids in appropriate  
26 trade journals, and otherwise notify persons believed to be interested in  
27 the award of a contract. Informal bids must be submitted by the contractor in  
28 writing in response to a prepared written document describing the project's  
29 scope of work in sufficient detail so as to enable a contractor familiar with  
30 such work to prepare a responsible bid. Nothing herein exempts an agency  
31 from the responsibility of utilizing formal plans and specifications if the  
32 work involves the public health or safety as described in chapters 3 and 12,  
33 title 54, Idaho Code. The agency must document receipt of the informal bids  
34 in the project file.

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

45 SECTION 2. An emergency existing therefor, which emergency is hereby  
46 declared to exist, this act shall be in full force and effect on and after its  
47 passage and approval.