IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 135

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

1 AN ACT
2 RELATING TO THE STATE PROCUREMENT ACT; AMENDING SECTION 67-9219, IDAHO CODE,
3 TO PROVIDE THAT CERTAIN CONTRACT SERVICES PERFORMED ON A COMPUTER BE
4 VERIFIED BY SPECIFIED SOFTWARE.

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

6 SECTION 1. That Section 67-9219, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 67-9219. CONTRACT OVERSIGHT. (1) Subject to approval of the director,
9 the administrator shall formulate rules that establish policies and proce-
10 dures relating to the administration, management, monitoring and oversight
11 of contracts entered by an agency.
12 (2) Any officer, institution or entity that is excluded from the def-
13 inition of "agency" under section 67-9203, Idaho Code, but that may enter
14 contracts obligating the state, shall establish policies and procedures re-
15 lating to the administration, management, monitoring and other oversight of
16 such contracts.
17 (3) Policies and procedures established pursuant to subsection (1) or
18 (2) of this section shall define the roles and responsibilities of those per-
19 sons assigned to administer, manage, monitor or otherwise oversee state con-
20 tracts.
21 (4) Each officer, agency, institution or entity that may enter con-
22 tracts obligating the state, regardless of whether such officer, agency,
23 institution or entity is included in the definition of "agency" under sec-
24 tion 67-9203, Idaho Code, shall make an annual report to the legislature on
25 all qualifying contracts entered into by the officer, agency, institution or
26 entity during the previous year. The report shall be made on the first day of
27 the regular legislative session and shall include the following information
28 for each contract:
29 (a) The amount;
30 (b) The duration;
31 (c) The parties; and
32 (d) The subject.
33 (5) ~~For purposes~~ Except as specified in subsection (6) of this section,
34 a qualifying contract is one valued at more than one million five hundred
35 thousand dollars ($1,500,000) over the duration of the contract and that is:
36 (a) Awarded as a result of a sole source or other noncompetitive pro-
37 curement pursuant to section 67-9221, Idaho Code;
38 (b) A multiyear contract; or
39 (c) Part of a multiple award.
40 (6) In addition to the other requirements set forth in this section,
41 the following requirements shall apply to a contract by or on behalf of any
42 agency for services in excess of one hundred thousand dollars ($100,000) and

include hourly billing for work performed on computers. The requirements
of this subsection shall not apply to professionals licensed by the state of
Idaho, including but not limited to public works licensees, architects, accountants, lawyers, engineers, and surveyors, to agreements between agencies or subdivisions of the state, or to work performed on state devices in
state offices.

    (a) A contract subject to this subsection must require a contractor to use software to verify that hours billed for work under the contract that are performed on a computer are legitimate. The contract must specify that the agency will not pay for hours worked on a computer unless those hours are verifiable by the software or by data collected by the software. The software shall do the following:

        (i) Permit the agency or an auditor of the agency to have real time or retroactive access to data collected or provided by the software;

        (ii) Automatically gather verification data of state-funded activity by tracking total keystroke and mouse event frequency and taking a screen shot at least once every five (5) minutes;

        (iii) Provide to the agency or an auditor of the agency automated real-time cost status;

        (iv) Permit the agency to provide feedback to the contractor on work in progress; and

        (v) Protect all data that is proprietary, private, or confidential on individuals, consistent with federal law, Idaho law, and appropriate regulations.

    (b) The data collected by the software required by this section shall be considered accounting records belonging to the contractor. The contractor shall store, or contract with another to store, the data collected by the software for a period of seven (7) years and shall provide access to the contracting agency or state auditors on their request.

    (c) The contractor must not charge the agency or an auditor of the agency for access to or use of the work verification software, or for access to or retrievals of data collected by the software.

    (d) The department of administration in conjunction with the office of information technology services shall promulgate rules or develop procedures to implement the requirements set forth in this section and shall have the authority to designate qualified software solutions. By written policy the administrator may exempt the requirements of this subsection when they are deemed impractical, disadvantageous, or unreasonable under the circumstance.

    (e) The requirements of this act shall be in full force and effect for all qualifying state contracts entered into on and after January 1, 2020. The provisions of this subsection shall be null, void, and of no force and effect after July 1, 2023.