

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 51

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO PROFESSIONAL SERVICE CONTRACTS; AMENDING SECTION 67-2320, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING PROFESSIONAL SERVICE FEES FOR CER-
3 TAIN CONTRACTS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
4 DATE.
5

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

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

9 67-2320. PROFESSIONAL SERVICE CONTRACTS WITH DESIGN PROFESSIONALS,
10 CONSTRUCTION MANAGERS, AND PROFESSIONAL LAND SURVEYORS. (1) Notwithstand-
11 ing any other provision of law to the contrary, it shall be the policy of this
12 state that all public agencies and political subdivisions of the state of
13 Idaho and their agents shall make selections for professional engineering,
14 architectural, landscape architecture, construction management, and pro-
15 fessional land surveying services, including services by persons licensed
16 pursuant to chapters 3, 12, 30, and 45, title 54, Idaho Code, on the basis of
17 qualifications and demonstrated competence and shall negotiate contracts or
18 agreements for such services.

19 (2) In carrying out this policy, public agencies and political subdivi-
20 sions of the state shall use the following minimum guidelines in securing
21 contracts for engineering, architectural, landscape architecture, con-
22 struction management, and land surveying services on projects for which the
23 professional service fee is anticipated to exceed the total sum of ~~fifty~~
24 ~~thousand dollars (\$50,000)~~ one hundred thousand dollars (\$100,000), exclud-
25 ing professional services contracts previously awarded for an associated or
26 phased project, and for which the expenditure is otherwise exempt from the
27 bidding process provided by law. To implement this policy, the public agency
28 and political subdivisions shall:

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

32 (b) Establish and make available to the public a request for qualifica-
33 tions that includes the criteria and the procedures to be used for mea-
34 surable scoring, ranking, and selection of qualified persons or firms
35 to perform such services;

36 (c) After receiving responses to a request for qualifications, score
37 and rank the responding persons or firms based on their qualifica-
38 tions and demonstrated competence pursuant to the public agency's or
39 political subdivision's established criteria and procedures. The
40 list of ranked respondents, including the scoring used to develop the
41 ranking, shall be made available to the public. Some examples of se-
42 lection criteria for consideration may include but are not limited

1 to: a description of the firm, including location and longevity; past
2 performance; project manager and key staff experience, education,
3 and training; experience with similar projects; specific approach to
4 project or assignment; proposed schedule, if applicable; and quality
5 control procedures;

6 (d) Select for negotiation the persons or firms whom the public agency
7 or political subdivision determines to be the highest-ranked (best
8 qualified);

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

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

18 (g) When unable to negotiate a satisfactory contract or agreement with
19 any of the selected persons or firms, recommence negotiations as de-
20 scribed in paragraphs (e) and (f) of this subsection until a contract or
21 agreement is reached or cancel the procurement;

22 (h) When a public agency or political subdivision solicits a request
23 for qualifications for engineering, architectural, landscape ar-
24 chitecture, construction management, or land surveying services for
25 which the professional service fee is anticipated to exceed the total
26 sum of ~~fifty thousand dollars (\$50,000)~~ one hundred thousand dollars
27 (\$100,000), it shall publish public notice in the same manner as re-
28 quired for procurement of public works construction projects under
29 section 67-2805(2), Idaho Code;

30 (i) In fulfilling the requirements of paragraphs (a) through (h) of
31 this subsection, a public agency or political subdivision may estab-
32 lish and select from a list of two (2) or more persons or firms selected
33 and preapproved for consideration by the public agency or political
34 subdivision. In establishing a preapproved list, a public agency or
35 political subdivision shall publish notice as set forth in paragraph
36 (h) of this subsection. When selecting from such list, no notice shall
37 be required; and

38 (j) Any list established under paragraph (i) of this subsection shall
39 remain valid for a maximum of five (5) years and may be canceled by the
40 public agency or political subdivision prior to the list's expiration
41 if the public agency or political subdivision determines that cancella-
42 tion would be in the public's interest.

43 (3) In securing contracts for engineering, architectural, landscape
44 architecture, construction management, or land surveying services on
45 projects for which the professional service fee is anticipated to be less
46 than the total sum of ~~fifty thousand dollars (\$50,000)~~ one hundred thousand
47 dollars (\$100,000), the public agency or political subdivision may use the
48 guidelines set forth in subsection (2) of this section or establish its own
49 guidelines for selection based on demonstrated competence and qualifica-
50 tions to perform the type of services required, followed by negotiation of

1 the fee at a price determined by the public agency or political subdivision
2 to be fair and reasonable after considering the estimated value, scope, com-
3 plexity, schedule, and nature of services required.

4 (4) When a public agency or political subdivision of the state has pre-
5 viously awarded a professional services contract to a person or firm for an
6 associated or phased project, the public agency or political subdivision
7 may, at its discretion and in accordance with all provisions of section
8 59-1026, Idaho Code, negotiate an extended or new professional services
9 contract with that person or firm.

10 (5) For the purposes of this section:

11 (a) "Public agency" means the state of Idaho and any departments, com-
12 missions, boards, authorities, bureaus, universities, colleges, edu-
13 cational institutions, or other state agencies that have been created
14 by or pursuant to statute other than courts and their agencies and di-
15 visions, and the judicial council and the district magistrates commis-
16 sion; and

17 (b) "Political subdivision" means any entity defined as a political
18 subdivision under section 6-902, Idaho Code, or any other district or
19 municipality of any nature whatsoever having the power to levy taxes or
20 assessment, organized under any general or special law of this state.
21 The enumeration of certain districts in this section shall not be
22 construed to exclude other districts or municipalities from this defi-
23 nition.

24 SECTION 2. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect on and after
26 July 1, 2025.