

IN THE SENATE

SENATE BILL NO. 1401, As Amended

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 DEPART-
3 MENT OF ADMINISTRATION AND THE RESPECTIVE STATE AGENCY DEEM IT IN THE
4 BEST INTEREST OF THE STATE AND TO REVISE PREQUALIFICATION PROVISIONS;
5 AND DECLARING AN EMERGENCY.
6

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 BID-
11 DING. (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 pub-
17 lic 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 (re-
35 lated to quality, workmanship and timeliness), reliability, safety record,
36 available nonfinancial resources, equipment and personnel as they relate
37 to the subject project, and overall performance history based upon a con-
38 tractor's entire body of work. Any request for qualifications must include
39 the standards for evaluating the qualifications of prospective bidders.
40 Licensed contractors desiring to be prequalified to bid on a project must
41 submit a written response to a request for qualifications. After a review of
42 qualification submittals, licensed contractors that meet the prequalifica-

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

6 (5) Bids shall be opened publicly at the time and place designated in
7 the invitation for bids. The amount of each bid and such other relevant
8 information as may be specified by rules, together with the name of each
9 bidder, shall be entered on a record and the record shall be open to public
10 inspection. After the time of the award all bids and bid documents shall
11 be open to public inspection in accordance with the provisions of sections
12 9-337 through 9-347 and 67-5725, Idaho Code.

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

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

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