

IN THE SENATE

SENATE BILL NO. 1311

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC WORKS CONSTRUCTION MANAGEMENT LICENSING ACT; AMEND-  
2 ING SECTION 54-4503, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE A  
3 TECHNICAL CORRECTION; AMENDING SECTION 54-4511, IDAHO CODE, TO ESTAB-  
4 LISH PROVISIONS RELATING TO A CONSTRUCTION MANAGER AGENT, TO ESTABLISH  
5 PROVISIONS RELATING TO CONSTRUCTION MANAGER/GENERAL CONTRACTOR, TO  
6 REVISE PROVISIONS RELATING TO A PUBLIC ENTITY ENTERING INTO A CERTAIN  
7 CONTRACT FOR CERTAIN SERVICES AS A CONSTRUCTION MANAGER AGENT OR AS A  
8 CONSTRUCTION MANAGER/GENERAL CONTRACTOR AND TO ESTABLISH PROVISIONS  
9 RELATING TO COMPENSATION OF A CONSTRUCTION MANAGER; AND AMENDING SEC-  
10 TION 54-4512, IDAHO CODE, TO PROVIDE THAT A CONSTRUCTION MANAGER/GEN-  
11 ERAL CONTRACTOR SHALL PROVIDE PAYMENT AND PERFORMANCE BONDS.  
12

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

14 SECTION 1. That Section 54-4503, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 54-4503. DEFINITIONS. As used in this chapter:

17 (1) "Applicant" means an individual who applies for a license or in-  
18 terim license pursuant to the provisions of this chapter.

19 (2) "Board" means the public works contractors state license board es-  
20 tablished in section 54-1905, Idaho Code.

21 (3) "Construction manager" means an individual who performs construc-  
22 tion management services.

23 (4) "Construction management services" means representation of an  
24 owner in public works construction, as defined in section 54-1901(2)(c),  
25 Idaho Code, by a person with substantial discretion and authority to plan  
26 including scheduling, estimating and approval, coordinate, manage or direct  
27 phases of a project for the construction, demolition, alteration, repair or  
28 reconstruction of any public work. ~~This definition shall not include gen-  
29 eral contracting services provided by public works contractors who actually  
30 perform the work of construction, alteration, repair or reconstruction.~~  
31 This definition shall not include services for which the laws of this state  
32 require a person to be licensed as an architect or registered as a profes-  
33 sional engineer, nor shall it include services traditionally and customar-  
34 ily provided by licensed architects or registered professional engineers.

35 (5) "Firm" means any business organization, including individuals,  
36 partnerships, corporations, associations or any combination thereof acting  
37 as a unit.

38 (6) "Licensure" means the issuance of a license to an applicant under  
39 the provisions of this chapter authorizing such individual to offer and per-  
40 form construction management services.

41 (7) "Person" includes an individual, partnership, corporation, asso-  
42 ciation or other organization.

1 SECTION 2. That Section 54-4511, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 54-4511. BIDDING AWARD OF CONTRACTS -- DUAL CAPACITY. (1) Construc-  
4 tion manager agent (CMA). A licensed construction manager and the firm of  
5 which he is a principal or full-time employee may be awarded a contract to  
6 act only as agent for an owner. In soliciting bids or awarding contracts for  
7 public works construction to be entered into by the owner, a licensed con-  
8 struction manager agent shall comply with all notice and bidding laws with  
9 which an owner would be required to comply if it were to do the same activi-  
10 ties without the assistance of a construction manager.

11 ~~(2)~~ A licensed construction manager agent and the firm of which he is  
12 a principal or employee shall not provide construction management services  
13 for a construction project on which the licensed construction manager or his  
14 firm also provides design services or other construction related services,  
15 whether as a contractor or subcontractor. Provided however, that this sec-  
16 tion shall not preclude a licensed architect or registered professional en-  
17 gineer from providing public works construction management services which  
18 are normally provided by licensed architects or registered professional en-  
19 gineers for a project on which the person or firm has provided design ser-  
20 vices. Such public works construction management services provided by a li-  
21 censed architect or registered professional engineer shall not include the  
22 procurement of equipment or construction work required by law to be competi-  
23 tively bid for public works construction.

24 (2) Construction manager/general contractor (CM/GC). A licensed con-  
25 struction manager and the firm of which he is a principal or full-time em-  
26 ployee may be awarded a contract to act as both construction manager and gen-  
27 eral contractor provided the construction manager/general contractor has a  
28 valid public works contractor license as a general contractor pursuant to  
29 section 54-1902, Idaho Code.

30 (3) No public entity shall enter into a contract with any person or firm  
31 for construction management services as construction manager agent or as  
32 construction manager/general contractor if such person or firm is required  
33 to be licensed under this chapter unless:

34 (a) Such person holds a valid license or such firm holds a valid cer-  
35 tificate issued pursuant to this chapter; and

36 (b) The selection of such construction manager agent or construction  
37 manager/general contractor is made pursuant to section 67-2320, Idaho  
38 Code.

39 (4) Compensation of a construction manager shall be determined pur-  
40 suant to section 67-2320, Idaho Code. At such time as the design of a project  
41 is available, the construction work, materials and equipment for construc-  
42 tion of a project may be incorporated into the construction manager/general  
43 contractor contract based upon bids solicited from licensed public works  
44 contractors and from suppliers. All construction work, materials and equip-  
45 ment shall be competitively bid to be opened publicly in the presence of a  
46 representative of the public body for whom the project is undertaken and  
47 shall be awarded to the lowest responsible bidders. The construction man-  
48 ager/general contractor, or its subsidiaries and affiliated companies, may  
49 bid to perform construction work or supply materials or equipment for which

1 it holds a valid license pursuant to section 54-1902, Idaho Code, and which  
2 it customarily self-performs or supplies.

3 SECTION 3. That Section 54-4512, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 54-4512. REQUIREMENT OF BOND. A licensed construction manager agent  
6 or firm providing public works construction management services shall be  
7 required to post a payment and performance bond or bonds in the amount of the  
8 total construction management contract to secure the construction manager's  
9 obligations thereunder. A construction manager/general contractor shall  
10 provide payment and performance bonds to secure construction of the project  
11 in the amounts required in section 54-1926, Idaho Code.