

IN THE SENATE

SENATE BILL NO. 1311, As Amended

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 REPRESENTATIVE, TO
5 ESTABLISH PROVISIONS RELATING TO CONSTRUCTION MANAGER/GENERAL CON-
6 TRACTOR, TO REVISE PROVISIONS RELATING TO A PUBLIC ENTITY ENTERING
7 INTO A CERTAIN CONTRACT FOR CERTAIN SERVICES AS A CONSTRUCTION MAN-
8 AGER REPRESENTATIVE OR AS A CONSTRUCTION MANAGER/GENERAL CONTRACTOR
9 AND TO ESTABLISH PROVISIONS RELATING TO COMPENSATION OF A CONSTRUCTION
10 MANAGER; AND AMENDING SECTION 54-4512, IDAHO CODE, TO PROVIDE THAT A
11 CONSTRUCTION MANAGER/GENERAL CONTRACTOR SHALL PROVIDE PAYMENT AND PER-
12 FORMANCE BONDS.
13

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

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

17 54-4503. DEFINITIONS. As used in this chapter:

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

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

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

24 (4) "Construction management services" means representation of an
25 owner in public works construction, ~~as defined in section 54-1901(2)(c),~~
26 ~~Idaho Code,~~ by a person with substantial discretion and authority to plan
27 including scheduling, estimating and approval, coordinate, manage or di-
28 rect phases of a project for the construction, demolition, alteration,
29 repair or reconstruction of any public work. ~~This definition shall not~~
30 ~~include general contracting services provided by public works contractors~~
31 ~~who actually perform the work of construction, alteration, repair or recon-~~
32 ~~struction.~~ This definition shall not include services for which the laws
33 of this state require a person to be licensed as an architect or registered
34 as a professional engineer, nor shall it include services traditionally
35 and customarily provided by licensed architects or registered professional
36 engineers. This definition shall not apply to highway, road or other trans-
37 portation projects.

38 (5) "Firm" means any business organization, including individuals,
39 partnerships, corporations, associations or any combination thereof acting
40 as a unit.

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

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

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

8 54-4511. BIDDING AWARD OF CONTRACTS -- DUAL CAPACITY. (1) Construc-
 9 tion manager representative (CMR). A licensed construction manager and the
 10 firm of which he is a principal or full-time employee may be awarded a contr-
 11 act to act only as representative for an owner. In soliciting bids or award-
 12 ing contracts for public works construction to be entered into by the owner,
 13 a licensed construction manager representative shall comply with all notice
 14 and bidding laws with which an owner would be required to comply if it were to
 15 do the same activities without the assistance of a construction manager.

16 ~~(2)~~ A licensed construction manager representative and the firm of
 17 which he is a principal or employee shall not provide construction manage-
 18 ment services for a construction project on which the licensed construction
 19 manager or his firm also provides design services or other construction re-
 20 lated services, whether as a contractor or subcontractor. Provided however,
 21 that this section shall not preclude a licensed architect or registered
 22 professional engineer from providing public works construction management
 23 services which are normally provided by licensed architects or registered
 24 professional engineers for a project on which the person or firm has provided
 25 design services. Such public works construction management services pro-
 26 vided by a licensed architect or registered professional engineer shall not
 27 include the procurement of equipment or construction work required by law to
 28 be competitively bid for public works construction.

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

35 (3) No public entity shall enter into a contract with any person or firm
 36 for construction management services as construction manager representa-
 37 tive or as construction manager/general contractor if such person or firm is
 38 required to be licensed under this chapter unless:

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

41 (b) The selection of such construction manager representative or
 42 construction manager/general contractor is made pursuant to section
 43 67-2320, Idaho Code.

44 (4) Compensation of a construction manager shall be determined pur-
 45 suant to section 67-2320, Idaho Code. At such time as the design of a project
 46 is available, the construction work, materials and equipment for construc-
 47 tion of a project may be incorporated into the construction manager/general
 48 contractor contract based upon bids solicited from licensed public works
 49 contractors and from suppliers. All construction work, materials and equip-

1 ment shall be competitively bid to be opened publicly in the presence of a
2 representative of the public body for whom the project is undertaken and
3 shall be awarded to the lowest responsible bidders. The construction man-
4 ager/general contractor, or its subsidiaries and affiliated companies, may
5 bid to perform construction work or supply materials or equipment for which
6 it holds a valid license pursuant to section 54-1902, Idaho Code, and which
7 it customarily self-performs or supplies.

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

10 54-4512. REQUIREMENT OF BOND. A licensed construction manager
11 representative or firm providing public works construction management ser-
12 vices shall be required to post a payment and performance bond or bonds in the
13 amount of the total construction management contract to secure the construc-
14 tion manager's obligations thereunder. A construction manager/general
15 contractor shall provide payment and performance bonds to secure construc-
16 tion of the project in the amounts required in section 54-1926, Idaho Code.