Into the Void…

State Procurement Laws Committee

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Different Words, Different Meanings

- Void: has no legal effect, usually because it is missing at least one element.
- Voidable: capable of being affirmed or rejected at the option of one of the parties, but which is binding on the other.
- Unenforceable: valid, but incapable of being sued upon because of lack of formality or some technical glitch (for instance, failure to comply with requirements of statute of frauds in real estate matter).
- Valid: enforceable at law. It creates legal obligations between the parties. It enables one party to compel another party to do something or not to do something.

Idaho Code 67-9213

- 67-9213. VOID CONTRACTS. (1) All contracts made in violation of the provisions of this chapter shall be void. Any sum of money advanced by the state in consideration of a void contract shall be repaid forthwith.
- (2) In the event of a refusal or delay when repayment is demanded by the proper officer of the state of Idaho, under whose authority such contract shall have been made or entered into, every person so refusing or delaying, together with that person's surety or sureties, shall be prosecuted at law for the recovery of such sum of money so advanced.

What does it mean

- Void or voidable?
  - A contract may proceed for a long time and then be declared void.
- Any sum of money advanced…
  - Payments prior to receipt of goods and services?
  - Connection with Idaho Code 67-5704?
    - 67-5704. ADVANCE PAYMENTS AND INTERACCOUNT TRANSACTIONS. Any unit of the department of administration providing services to departments of state government as authorized in this chapter may charge and receive payment in advance of performance thereof for a period of time not to exceed the current appropriation of the department requesting such services. Such payments may be used for personnel costs and operating expenditures of the unit providing the services.

Striking the Right Balance

- The Sword/Shield Problem
  - Designed to protect the taxpayers
  - But also have to protect those who contract with the state