LEGISLATURE OF THE STATE OF IDAHO
Sixty-seventh Legislature Second Regular Session – 2024

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 691

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO STATE GOVERNMENT; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5779, IDAHO CODE, TO PROVIDE THAT NOTICE OF INTENT PRIOR TO AN AGREEMENT TAKING EFFECT SHALL BE REQUIRED IN CERTAIN Instances, TO PROVIDE EXEMPTIONS, TO DEFINE A TERM, TO PROVIDE FOR NULLIFICATION, AND TO PROVIDE FOR A FORM OF A NOTICE OF INTENT; AMENDING SECTION 67-9203, IDAHO CODE, TO REVISE A DEFINITION; AMENDING CHAPTER 92, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-9234, IDAHO CODE, TO PROVIDE THAT NOTICE OF INTENT PRIOR TO AN AGREEMENT TAKING EFFECT SHALL BE REQUIRED IN CERTAIN Instances, TO PROVIDE EXEMPTIONS, TO DEFINE A TERM, TO PROVIDE FOR NULLIFICATION, AND TO PROVIDE FOR A FORM OF A NOTICE OF INTENT; AMENDING SECTION 67-9234, IDAHO CODE, TO REDESIGNATE THE SECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5779, Idaho Code, and to read as follows:

67-5779. NOTICE OF INTENT PRIOR TO AGREEMENT TAKING EFFECT. (1) Any agency, officer, department, division, bureau, board, commission, and institution of the state, including the public utilities commission and any state institution of higher education, that plans to enter into a contract or agreement with another person or entity in which goods, services, real estate, or other property reasonably valued at more than twenty-five million dollars ($25,000,000) are acquired, sold, or included in a part of the agreement shall provide a notice of intent in a public disclosure no less than thirty (30) days prior to such agreement being approved. Notice of intent shall be given in a completed form, as provided in subsection (5) of this section.

(2) Transactions that go through a solicitation process as described in chapter 92, title 67, or chapter 9, title 40, Idaho Code; any transactions that have been specifically authorized and appropriated or approved by the legislature; any transactions made during an emergency, as defined in section 46-1002, Idaho Code; any transactions made prior to July 1, 2024; and any legal settlements shall be exempt from the provisions of this section.

(3) As used in this section, "notice" means:

(a) An electronic message of the notice of intent form sent to all legislators and elected executive branch constitutional officers using each of their official state email addresses;

(b) A notice of intent form sent by email to all members of the capitol correspondents association listed in the most recent edition of the legislative directory and other media representatives at the email ad-
dress, if any, provided to the legislative services office. If no such
e-mail address is provided, notice pursuant to this paragraph shall not
be required;
(c) A notice of intent form published on the website of the state entity
described in subsection (1) of this section and on a social media blog or
page, if any, managed by such institution with an opportunity to allow
for public comment on the agreement; and
(d) A notice of intent form published one (1) time in one (1) newspaper
of general circulation in a county where the decision is to take place.
(4) Any contract or agreement described in subsection (1) of this sec-
tion that is not exempt pursuant to subsection (2) of this section that sub-
stantially fails to follow the notice process required by this section shall
be null, void, and of no force and effect.
(5) A notice of intent form as required by this section shall be as fol-

NOTICE OF INTENT TO ENTER INTO AN AGREEMENT AFFECTING MORE THAN
$25 MILLION

This is notice that ____(name of board, agency, commission, con-
stitutional officer, or other State of Idaho entity) intends to en-
ter into an agreement to obligate by contract, agreement, or other-
wise the State of Idaho in the amount of more than $25 million or in-
tends to enter into an agreement concerning a transaction in which
goods, services, real estate, or other property reasonably valued
at more than $25 million is acquired, sold, or included in a part of
the agreement.

Specifically, you are notified that a decision may be made on or
after 30 days from the date this notice is sent, and will concern
____(description of the property involved), at ____(location includ-
ing an address of the person or entity that is a party to the trans-
action or obligation), and ____(the detailed purpose of the trans-
action).

This transaction is not being made pursuant to the request for
proposals process in Idaho Code, and the transaction has not been
specifically approved by the Idaho Legislature.

For further information please contact: (name, title, email ad-
dress, office address, and phone number)

Dated__________________________

By___________________________ (Name and Title)

SECTION 2. That Section 67-9203, Idaho Code, be, and the same is hereby
amended to read as follows:

67-9203. DEFINITIONS. As used in this chapter:
(1) "Acquisition" means the process of procuring property.
(2) "Administrator" means the administrator of the division of purchasing as created by section 67-9204, Idaho Code.

(3) "Agency" means all officers, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding:

(a) The legislative and judicial branches of government;

(b) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general and superintendent of public instruction; and

(c) Except as provided in section 67-9234, Idaho Code, a state institution of higher education that complies with the provisions of section 67-9225, Idaho Code.

(4) "Bid" means a written offer to perform a contract to sell or otherwise supply property in response to a solicitation.

(5) "Bidder" means a vendor who has submitted a bid on property to be acquired by the state.

(6) "Contract" means an agreement for the acquisition of property, including a purchase order.

(7) "Contractor" means a vendor who has been awarded a contract.

(8) "Director" means the director of the department of administration as created by section 67-5701, Idaho Code.

(9) "Environmental, social, and governance standards" means procurement standards that screen or score bids, in whole or in part, on subjective ethical or sustainability criteria unrelated to the specifications in a solicitation or the qualifications of a bidder.

(10) "Lowest responsible bidder" means the responsible bidder whose bid reflects the lowest acquisition price to be paid by the state, except that when specifications are valued or comparative performance evaluations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price.

(11) "Open contract" means a contract awarded by the state through the division of purchasing as a result of a competitive solicitation to one (1) or more vendors who have agreed to allow all agencies to procure specified property under the terms and conditions set forth in the contract.

(12) "Procure" means to obtain property for state use in a manner other than by gift including, but not limited to, purchase, lease or rent.

(13) "Property" means goods, services, parts, supplies and equipment, both tangible and intangible, including, but not limited to, designs, plans, programs, systems, techniques and any rights or interests in such property.

(14) " Sole source" means the only vendor from whom specific property is available to procure.

(15) "Solicitation" means an invitation to bid, a request for proposal or a request for quote issued pursuant to this chapter for the purpose of procuring property.

(16) "Specifications" means the standards or requirements for property to be procured as explicitly stated in a solicitation or contract.

(17) "State institution of higher education" means Boise state university, Idaho state university or Lewis-Clark state college.
(18) "Vendor" means a person or entity capable of supplying property to the state.

SECTION 3. That Chapter 92, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-9234, Idaho Code, and to read as follows:

67-9234. NOTICE OF INTENT PRIOR TO AGREEMENT TAKING EFFECT. (1) Any agency of this state, including any state institution of higher education, that plans to enter into a contract or agreement with another person or entity in which goods, services, real estate, or other property reasonably valued at more than twenty-five million dollars ($25,000,000) are acquired, sold, or included in a part of the agreement shall provide a notice of intent in a public disclosure no less than thirty (30) days prior to such agreement being approved. Notice of intent shall be given in a completed form, as provided in subsection (5) of this section.

(2) Transactions that go through a solicitation process as described in chapter 92, title 67, or chapter 9, title 40, Idaho Code; any transactions that have been specifically authorized and appropriated or approved by the legislature; any transactions made during an emergency, as defined in section 46-1002, Idaho Code; any transactions made prior to July 1, 2024; and any legal settlements shall be exempt from the provisions of this section.

(3) As used in this section, "notice" means:

(a) An electronic message of the notice of intent form sent to all legislators and elected executive branch constitutional officers using each of their official state email addresses;

(b) A notice of intent form sent by email to all members of the capital correspondents association listed in the most recent edition of the legislative directory and other media representatives at the email address, if any, provided to the legislative services office. If no such email address is provided, notice pursuant to this paragraph shall not be required;

(c) A notice of intent form published on the website of the agency and on a social media blog or page, if any, managed by the agency with an opportunity to allow for public comment on the agreement; and

(d) A notice of intent form published one (1) time in one (1) newspaper of general circulation in a county where the decision is to take place.

(4) Any contract or agreement described in subsection (1) of this section that is not exempt pursuant to subsection (2) of this section that substantially fails to follow the notice process required by this section shall be null, void, and of no force and effect.

(5) A notice of intent form as provided in this section shall be as follows:

NOTICE OF INTENT TO ENTER INTO AN AGREEMENT AFFECTING MORE THAN $25 MILLION

This is notice that _____(name of board, agency, commission, constitutional officer, or other State of Idaho entity) intends to enter into an agreement to obligate by contract, agreement, or otherwise the State of Idaho in the amount of more than $25 million or in-
tends to enter into an agreement concerning a transaction in which goods, services, real estate, or other property reasonably valued at more than $25 million is acquired, sold, or included in a part of the agreement.

Specifically, you are notified that a decision may be made on or after 30 days from the date this notice is sent, and will concern (description of the property involved), at (location including an address of the person or entity that is a party to the transaction or obligation), and (the detailed purpose of the transaction).

This transaction is not being made pursuant to the request for proposals process in Idaho Code, and the transaction has not been specifically approved by the Idaho Legislature.

For further information please contact: (name, title, email address, office address, and phone number)

Dated________________________

By________________________ (Name and Title)

SECTION 4. That Section 67-9234, Idaho Code, be, and the same is hereby amended to read as follows:

67-9234 67-9235. SEVERABILITY. Insofar as a provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2024.