

IN THE SENATE

SENATE BILL NO. 1423

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PURCHASING; AMENDING SECTION 67-9230, IDAHO CODE, TO REVISE A PROVISION REGARDING THE ELIGIBILITY OF CERTAIN VENDORS TO SUBMIT BIDS FOR STATE CONTRACTS FOR PROPERTY OR SERVICES; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-9230, Idaho Code, be, and the same is hereby amended to read as follows:

67-9230. PROHIBITIONS. (1) No contract or any interest therein shall be transferred by the contractor to whom such contract is given to any other party without approval in writing by the administrator and by the board of examiners pursuant to section 67-1027, Idaho Code. Transfer of a contract without approval shall cause the annulment of the contract so transferred, at the option of the state. All rights of action, however, for any breach of such contract by the contracting parties are reserved to the state.

(2) No member of the legislature or any officer or employee of any branch of the state government shall directly, himself, or by any other person in trust for him or for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract made or entered into by or on behalf of the state of Idaho, if made by, through, or on behalf of the department in which he is an officer or employee; or if made by, through or on behalf of any other department unless the same is made after competitive bids.

(3) Except as provided in this chapter, no officer or employee shall influence or attempt to influence the award of a contract to a particular vendor, or to deprive or attempt to deprive any vendor of a contract.

(4) No officer or employee shall conspire with a vendor or its agent, and no vendor or its agent shall conspire with an officer or employee, to influence or attempt to influence the award of a contract, or to deprive or attempt to deprive a vendor of a contract.

(5) No officer or employee shall fail to use an open contract except as provided in this chapter.

(6) No officer or employee shall accept property knowing that the property does not meet specifications or other acceptance criteria set forth in the contract.

(7) Deprivation, influence or attempts thereat shall not include written reports, based upon substantial evidence, sent to the administrator concerning matters relating to the responsibility of vendors.

~~(8) No vendor or related party, or subsidiary, or affiliate of a vendor, may submit a bid to obtain a contract to provide property to the state, if the vendor or related party, or affiliate or subsidiary was paid for services used in preparing the specifications or if the services influenced the~~

1 procurement process. A vendor or related party, subsidiary of a vendor, or
2 affiliate of a vendor that provided consulting or other services, paid or un-
3 paid, used in preparing the specifications, or that participated in legisla-
4 tive committee meetings that were used in preparing the specifications, may
5 submit a bid to obtain a contract to provide such property or services to the
6 state only if:

7 (a) All documentation prepared by the vendor or related party, or af-
8 affiliate or subsidiary of the vendor, used in the preparation of such
9 specifications are public records in accordance with chapter 1, title
10 74, Idaho Code, not exempt from disclosure, and available for review by
11 the public and other potential vendors at the time of a solicitation;

12 (b) Any legislative committee meeting participated in by the vendor or
13 related party, or affiliate or subsidiary of the vendor, that was used
14 in preparing the specifications was conducted as an open meeting in ac-
15 cordance with chapter 2, title 74, Idaho Code, and not in an executive
16 session; and

17 (c) The consulting or other services or participation in legislative
18 committee meetings:

19 (i) Does not cause specifications to be drawn such that only the
20 specific vendor or related party, or affiliate or subsidiary of
21 the vendor, can meet the specifications; and

22 (ii) Does not provide the specific vendor with a quantifiable and
23 objective advantage.

24 SECTION 2. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect on and after
26 July 1, 2024.