

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 301

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO STATE PROCUREMENT; AMENDING SECTION 67-3501B, IDAHO CODE, TO
2 DEFINE TERMS AND TO PROVIDE APPLICABILITY; AMENDING SECTION 67-3502,
3 IDAHO CODE, TO REVISE PROVISIONS REGARDING THE FORMAT AND PREPARATION
4 OF ANNUAL BUDGET REQUESTS; AMENDING SECTION 67-9202, IDAHO CODE, TO
5 REVISE PROVISIONS REGARDING A DECLARATION OF POLICY; AMENDING SECTION
6 67-9203, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMEND-
7 ING SECTION 67-9205, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE
8 POWERS AND DUTIES OF THE ADMINISTRATOR; AMENDING SECTION 67-9208, IDAHO
9 CODE, TO REVISE PROVISIONS REGARDING SOLICITATIONS; AMENDING CHAPTER
10 92, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-9208A,
11 IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE INTENT TO SOLICIT;
12 AMENDING SECTION 67-9209, IDAHO CODE, TO REVISE PROVISIONS REGARDING
13 BIDS; AMENDING SECTION 67-9210, IDAHO CODE, TO REVISE PROVISIONS RE-
14 GARDING THE AWARD OF CONTRACT; REPEALING SECTION 67-9211, IDAHO CODE,
15 RELATING TO MULTIPLE AWARDS; AMENDING CHAPTER 92, TITLE 67, IDAHO CODE,
16 BY THE ADDITION OF A NEW SECTION 67-9211, IDAHO CODE, TO ESTABLISH PRO-
17 VISIONS REGARDING MULTIPLE AWARDS; AMENDING SECTION 67-9215, IDAHO
18 CODE, TO PROVIDE FOR A CERTAIN EXCEPTION TO THE DISCLOSURE OF RECORDS;
19 AMENDING SECTION 67-9230, IDAHO CODE, TO REVISE PROVISIONS REGARDING
20 CERTAIN PROHIBITIONS; AMENDING SECTION 67-9233, IDAHO CODE, TO REVISE
21 PROVISIONS REGARDING ETHICS IN PROCUREMENT; AND PROVIDING AN EFFECTIVE
22 DATE.
23

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

25 SECTION 1. That Section 67-3501B, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 67-3501B. DEFINITIONS. The terms defined in this section shall apply
28 to this chapter and shall have the following meanings, unless the context
29 clearly indicates another meaning:

30 (1) "Account category" means a grouping of transactions for the pur-
31 poses of identifying expenditure classifications, including personnel
32 costs, operating expenditures, capital outlay, and trustee and benefit pay-
33 ments.

34 (2) "Appropriation" means a provision of legal authority given by the
35 legislature that permits a department, office, or institution of the state
36 to draw moneys from the state treasury for an object or demand against the
37 state that is specified by amount, program, account category, fund, and pe-
38 riod.

39 (3) "Encumbrance" means the recognition of a commitment that is a re-
40 duction against a current year appropriation and will subsequently become an
41 expenditure when a good or service is received.

1 (4) "Executive carry forward" means an increase in the current year ap-
 2 propriation resulting from an unliquidated encumbrance balance from a prior
 3 fiscal year.

4 (5) "Fund" means a category of moneys in the treasury from which appro-
 5 priations are made and the use of which is prescribed by law.

6 (6) "Program" means an activity or function of a department, office, or
 7 institution of the state, or a grouping thereof, for which appropriations
 8 are made and expenditures are reported.

9 (7) "Property" has the same meaning as that term is defined in section
 10 67-9203, Idaho Code.

11 (8) "Request for information" has the same meaning as that term is de-
 12 fined in section 67-9203, Idaho Code.

13 (9) "Request for proposal" has the same meaning as that term is defined
 14 in section 67-9203, Idaho Code.

15 (10) "Request for quote" has the same meaning as that term is defined in
 16 section 67-9203, Idaho Code.

17 SECTION 2. That Section 67-3502, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 67-3502. FORMAT AND PREPARATION OF ANNUAL BUDGET REQUESTS -- EX-
 20 CEPTIONS FOR EMERGENCIES. (1) In the preparation of a state budget, the
 21 administrator of the division of financial management shall, not later
 22 than the fifteenth day of July, have available for all departments, offices
 23 and institutions of the state government forms necessary to prepare budget
 24 requests. Such forms, whether in electronic or written format, shall be
 25 developed by the administrator of the division and the legislative services
 26 office to provide the following information:

27 (a) For the preceding fiscal year, each of the entities listed in this
 28 section shall report all moneys available to them regardless of source,
 29 including legislative appropriations, and their expenditures by fund
 30 and account category of all sums received from all sources, segregated
 31 as provided for on the forms;

32 (b) For the current fiscal year, each of the entities listed in this
 33 section shall report their estimates of all moneys available to them
 34 regardless of source, including legislative appropriations, and their
 35 estimated expenditures by fund and account category of all sums re-
 36 ceived from all sources, segregated as provided for on the forms,
 37 including a statement of the purposes for which anticipated moneys are
 38 expected to be expended, and an estimated cost for each request to ac-
 39 quire property, including requests to replace existing property, that
 40 is estimated to cost two hundred fifty thousand dollars (\$250,000) or
 41 more based on data collected through a request for quote or a request for
 42 information;

43 (c) An estimate of appropriations needed for the succeeding fiscal
 44 year, showing each primary program or major objective as a separate item
 45 of the request and itemized by account category;

46 (d) A report concerning the condition and management of programs,
 47 program performance, and progress toward accomplishing program objec-
 48 tives; and

1 (e) A report that discloses any known future reductions or eliminations
2 of federal moneys reported to the division of financial management un-
3 der section 67-1910, Idaho Code, and the agency's plan for operating if
4 there is a reduction of ten percent (10%) or more in the federal moneys
5 that the state agency receives; and

6 (f) A complete draft request for proposal for the request to acquire
7 property, including requests to replace existing property, that is es-
8 timated to cost two hundred fifty thousand dollars (\$250,000) or more
9 and that requires a competitive bid under the provisions of chapter 92,
10 title 67, Idaho Code.

11 (2) The completed forms shall, not later than the first day of Septem-
12 ber, except with special permission and agreement of the administrator of
13 the division of financial management and the director of the legislative
14 services office, be filed in the office of the administrator of the division
15 of financial management and the legislative services office. The department
16 of administration's division of public works shall, as early as practicable
17 and in any event no later than ~~the fifteenth day of~~ November 15, prepare and
18 file in the office of the governor and the legislative services office ~~upon~~
19 on the forms described in this section a report of all of the information
20 required in this section. The judicial department shall include in its fil-
21 ing the budget request of the judicial council as submitted by the judicial
22 council.

23 (3) The governor may declare that a request to acquire replacement
24 property that is estimated to cost two hundred fifty thousand dollars
25 (\$250,000) or more and that requires a competitive bid under the provisions
26 of chapter 92, title 67, Idaho Code, qualifies as an emergency if:

27 (a) The requested property is identified by the department, office, or
28 institution after the deadline provided in subsection (2) of this sec-
29 tion;

30 (b) The department, office, or institution provides an estimated cost
31 for the replacement property based on data collected through a request
32 for information provided under subsection (1) (b) of this section prior
33 to the start of the legislative session in January; and

34 (c) The failure to acquire the property will interfere with the statu-
35 tory responsibilities of the department, office, or institution.

36 (4) The governor may declare that a request to acquire new property that
37 is estimated to cost between two hundred fifty thousand dollars (\$250,000)
38 and one million dollars (\$1,000,000) and that requires a competitive bid
39 pursuant to chapter 92, title 67, Idaho Code, qualifies as an emergency if:

40 (a) The requested property is identified by the department, office, or
41 institution after the deadline provided in subsection (2) of this sec-
42 tion;

43 (b) The department, office or institution can provide an estimated cost
44 for the property based on data collected through a request for informa-
45 tion provided under subsection (1) (b) of this section prior to the start
46 of the legislative session in January; and

47 (c) The failure to acquire the property will interfere with the statu-
48 tory responsibilities of the department, office, or institution.

49 (5) Requests to acquire property submitted under the provisions of sub-
50 sections (3) and (4) of this section shall be exempt from the requirement to

1 provide a draft request for proposal as provided in subsection (1) of this
 2 section.

3 (6) Draft requests for proposals for emergency requests filed pursuant
 4 to subsections (3) and (4) of this section shall be completed no later than
 5 March 31. The legislature may decline to appropriate moneys for the acquisi-
 6 tion of such property or remove funding for the same from appropriation bills
 7 if a completed draft request for proposal has not been filed for such prop-
 8 erty by the deadline.

9 SECTION 3. That Section 67-9202, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 67-9202. DECLARATION OF POLICY. The Idaho legislature, recognizing
 12 that an offered low price is not always indicative of the greatest value,
 13 declares it to be the policy of the state:

14 (1) To engage in open, competitive acquisitions of property; ~~and~~
 15 (2) To provide a consistent process on a predictable timeline to ensure
 16 that the lowest responsible bid is secured; and
 17 ~~(2) (3)~~ (3) To maximize the value received by the state with attendant bene-
 18 fits to the citizens.

19 SECTION 4. That Section 67-9203, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 67-9203. DEFINITIONS. As used in this chapter:

22 (1) "Acquisition" means the process of procuring property.
 23 (2) "Administrator" means the administrator of the division of pur-
 24 chasing as created by section 67-9204, Idaho Code.
 25 (3) "Agency" means all officers, departments, divisions, bureaus,
 26 boards, commissions and institutions of the state, including the public
 27 utilities commission, but excluding:
 28 (a) The legislative and judicial branches of government;
 29 (b) The governor, lieutenant governor, secretary of state, state con-
 30 troller, state treasurer, attorney general and superintendent of pub-
 31 lic instruction; and
 32 (c) Except as provided in section 67-9234, Idaho Code, a state insti-
 33 tution of higher education that complies with the provisions of section
 34 67-9225, Idaho Code.
 35 (4) "Bid" means a written offer to perform a contract to sell or other-
 36 wise supply property in response to a solicitation.
 37 (5) "Bidder" means a vendor who has submitted a bid on property to be
 38 acquired by the state.
 39 (6) "Contract" means an agreement for the acquisition of property, in-
 40 cluding a purchase order.
 41 (7) "Contractor" means a vendor who has been awarded a contract.
 42 (8) "Director" means the director of the department of administration
 43 as created by section 67-5701, Idaho Code.
 44 (9) "Environmental, social, and governance standards" means procure-
 45 ment standards that screen or score bids, in whole or in part, on subjective
 46 ethical or sustainability criteria unrelated to the specifications in a so-
 47 licitation or the qualifications of a bidder.

1 (10) "Lowest responsible bidder" means the responsible bidder whose bid
 2 reflects the lowest acquisition price to be paid by the state and who meets
 3 the bid qualifications, except that when specifications are valued or com-
 4 parative performance evaluations are conducted, the results of such exami-
 5 nations and the relative score of valued specifications will be weighed, as
 6 set out in the specifications, in determining the lowest acquisition price.

7 (11) "Multiple award" means a contract awarded to two (2) or more bid-
 8 ders to furnish the same or similar property when necessary or convenient to
 9 ensure adequate delivery, service, or product compatibility.

10 ~~(11)~~ (12) "Open contract" means a contract awarded by the state through
 11 the division of purchasing as a result of a competitive solicitation to one
 12 (1) or more vendors who have agreed to allow all agencies to procure speci-
 13 fied property under the terms and conditions set forth in the contract.

14 ~~(12)~~ (13) "Procure" means to obtain property for state use in a manner
 15 other than by gift, including, but not limited to, purchase, lease or rent.

16 ~~(13)~~ (14) "Property" means goods, services, parts, supplies and equip-
 17 ment, both tangible and intangible, including, but not limited to, designs,
 18 plans, programs, systems, techniques and any rights or interests in such
 19 property.

20 (15) "Request for information" means a formal request to potential ven-
 21 dors to provide information on their capabilities, services, and pricing, in
 22 order to create a draft request for proposals.

23 (16) "Request for proposal" means a formal request for vendors to sub-
 24 mit a bid, which includes the total scope of services and is the basis of the
 25 award of a contract.

26 (17) "Request for quote" means a formal request to vendors for pricing
 27 and terms on specific property.

28 ~~(14)~~ (18) "Sole source" means the only vendor from whom specific prop-
 29 erty is available to procure.

30 ~~(15)~~ (19) "Solicitation" means an invitation to bid, a request for pro-
 31 posal, a request for information, or a request for quote issued pursuant to
 32 this chapter for the purpose of ~~procuring~~ identifying the scope of requested
 33 work, which may include the eventual procurement of property.

34 ~~(16)~~ (20) "Specifications" means the standards or requirements for
 35 property to be procured as explicitly stated in a solicitation or contract.

36 ~~(17)~~ (21) "State institution of higher education" means Boise state
 37 university, Idaho state university or Lewis-Clark state college.

38 ~~(18)~~ (22) "Vendor" means a person or entity capable of supplying prop-
 39 erty to the state.

40 SECTION 5. That Section 67-9205, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 67-9205. POWERS AND DUTIES OF THE ADMINISTRATOR. The administrator of
 43 the division of purchasing:

44 (1) Shall acquire all property for state agencies according to the pro-
 45 visions of this chapter;

46 (2) Shall acquire all property by competitive solicitation, except as
 47 otherwise provided;

1 (3) Shall determine, based on the specifications and matters relating
2 to responsibility, the lowest responsible bidder or bidders in all competi-
3 tive solicitations;

4 (4) Shall enter into contracts and any modifications thereto for the
5 acquisition of property on behalf of and in the name of state agencies;

6 (5) Shall, when economically feasible and practical, consolidate so-
7 licitations and acquire property in amounts as large as can be efficiently
8 managed and controlled;

9 (6) May, in the evaluation of paper product bids, give those items that
10 meet the recycled content standards as specified by the administrator a five
11 percent (5%) purchasing preference. As such, those qualifying paper prod-
12 ucts may be considered to cost five percent (5%) less when choosing the low-
13 est responsible bidder;

14 (7) May appoint a deputy who shall have the power to act for the adminis-
15 trator and in the administrator's place while absent, which deputy shall be
16 bonded to the state of Idaho as prescribed by chapter 8, title 59, Idaho Code;

17 (8) May require from any contractor the submission of a performance
18 bond for such sum as will, in the opinion of the administrator, guarantee
19 the faithful performance of such contract, and the amount and requirement
20 therefor shall be set out in the specifications;

21 (9) May enter into open contracts based on actual or estimated require-
22 ments;

23 (10) May enter into contracts, including leases and rentals, for peri-
24 ods of time exceeding one (1) year, provided that such contracts contain no
25 penalty to or restriction ~~upon~~ on the state in the event cancellation is ne-
26 cessitated by a lack of funding for any such contract;

27 (11) Is authorized and empowered to formulate rules, subject to the ap-
28 proval of the director, to effect the provisions of this chapter;

29 (12) May enter into negotiations for acquisitions in accordance with
30 established rules of the division;

31 (13) May inspect property supplied by a contractor to determine whether
32 it meets specifications;

33 (14) May classify, after review with the various agencies, the require-
34 ments of the state for all property that may be acquired, and may adopt stan-
35 dards of quality for property, and may establish specifications for acquisi-
36 tion. Each specification shall, until revised or rescinded, apply alike in
37 terms and effect to each future acquisition of the classified property;

38 (15) May delegate authority pursuant to section 67-9206, Idaho Code;
39 and

40 (16) May carry out such acts as are necessary to enforce the provisions
41 of this chapter; and

42 (17) May issue a multiple award contract to two (2) or more bidders.

43 SECTION 6. That Section 67-9208, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 67-9208. SOLICITATIONS. (1) The administrator shall not make or cause
46 to be made any acquisition until a requisition for the property to be ac-
47 quired has been submitted to the administrator's office by the requisition-
48 ing agency. The requisition shall certify to the administrator's satisfac-
49 tion that the governor approved the relevant appropriation bill pursuant to

1 section 67-3502, Idaho Code, or that there are sufficient funds or balance
2 in appropriations out of which the amount of the requisition may be lawfully
3 paid, except as provided in section 67-9221(3), Idaho Code.

4 (2) Upon determining that an agency's requisition complies with the
5 provisions of subsection (1) of this section, the administrator shall is-
6 ssue a solicitation for the acquisition of property as provided in section
7 67-3502(1), Idaho Code, in the same calendar year of the approved appro-
8 priation bill. The administrator may post the solicitation up to three (3)
9 months before July 1 but no later than July 1 in the current calendar year.
10 Solicitations for emergency requests for the acquisition of property as
11 provided in section 67-3502, Idaho Code, shall be published no later than
12 September 1. For solicitations related to the renewal of an existing con-
13 tract of up to thirty-five (35) months in length, the administrator shall
14 post the solicitation no later than six (6) months prior to the end of the
15 contract. For solicitations related to the renewal of an existing contract
16 of three (3) years or more in length, the administrator shall post the solic-
17 itation no later than eighteen (18) months prior to the contract expiration.
18 Notice of the solicitation shall be posted in a conspicuous manner as pre-
19 scribed by rule. The notice shall describe the property to be acquired in
20 sufficient detail to apprise a vendor of the exact nature of the property
21 being sought and shall set forth the bid closing date, time and location.

22 (3) The administrator may establish by rule exceptions to the notice
23 provisions in subsection (2) of this section; provided however, that the
24 procurements excepted from the notice provisions must be minor in nature.

25 (4) After the administrator publishes the solicitation, the following
26 schedule shall apply:

27 (a) Bidders shall have up to sixty (60) days to respond to the solic-
28 itation. A shorter timeline of thirty (30) or forty-five (45) days to
29 respond may be set by the administrator if included in the notice of the
30 solicitation;

31 (b) The administrator shall have up to sixty (60) days to review the
32 bids submitted pursuant section 67-9209, Idaho Code. The administrator
33 may request an extension of no more than thirty (30) days with the ap-
34 proval of the director and notice of the reason for the request provided
35 to all vendors with active bids under consideration; and

36 (c) The administrator shall notify the vendor that will be awarded a
37 contract no later than five (5) business days after completing a review
38 of the bids pursuant to paragraph (b) of this subsection.

39 (5) For any solicitations that require the approval of a third party,
40 including but not limited to the centers for medicare and medicaid services,
41 the administrator and participating vendors shall follow the schedule pur-
42 suant to subsection (4) of this section with the expectation that the overall
43 solicitation and bid schedule will shift to include any additional time re-
44 quired by the third party.

45 (6) At the time a notice of solicitation is issued, the administrator
46 shall also publish the process for bid analysis or scoring. Such process
47 shall not change after the solicitation is issued.

48 SECTION 7. That Chapter 92, Title 67, Idaho Code, be, and the same is
49 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
50 ignated as Section 67-9208A, Idaho Code, and to read as follows:

1 67-9208A. INTENT TO SOLICIT. (1) If an appropriation bill is approved
2 by the governor that includes a request to acquire property from an agency
3 pursuant to section 67-3502, Idaho Code, the administrator shall post notice
4 of the agency's intent to solicit for the identified property within ten (10)
5 days of the governor's approval on the state's procurement website.

6 (2) If any agency intends to seek the renewal of a contract, the admin-
7 istrator shall post notice of the agency's intent to solicit on the state's
8 procurement website no later than one (1) month prior to the deadline pro-
9 vided in section 67-9208(2), Idaho Code, for solicitations related to the
10 renewal of an existing contract.

11 (3) An intent to solicit shall include the date the solicitation will be
12 available to bidders and a schedule for the solicitation and bidding process
13 as provided in section 67-9208, Idaho Code.

14 (4) For future solicitations intended to replace existing property and
15 that do not require a new appropriation, the administrator shall post notice
16 of the agency's intent to solicit no later than thirty (30) days prior to pub-
17 lishing the solicitation.

18 (5) In the case of requests to acquire property that the governor des-
19 ignates as emergencies pursuant to section 67-3502, Idaho Code, the adminis-
20 trator shall post notice of the agency's intent to solicit no later than Au-
21 gust 2 and a schedule for the solicitation and bid process as provided in sec-
22 tion 67-9208, Idaho Code.

23 SECTION 8. That Section 67-9209, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 67-9209. BIDS. (1) In response to a solicitation or an intent to so-
26 licit issued pursuant to section 67-9208 or 67-9208A, Idaho Code, a vendor
27 seeking to supply the property solicited shall submit a bid in a manner pre-
28 scribed by rule.

29 (2) Vendors who did not participate or submit a request for information
30 under the provisions of section 67-3502, Idaho Code, may still submit a bid
31 in response to a solicitation.

32 ~~(2)~~ (3) To enhance small business bidding opportunities, the adminis-
33 trator shall seek a minimum of three (3) bids from vendors having a signifi-
34 cant Idaho economic presence as defined in section 67-2349, Idaho Code.

35 ~~(3)~~ (4) All bids received shall be opened at the time and place spec-
36 ified in the solicitation. The bids shall be opened in public view, and a
37 record of each bid shall then and there be made. The administrator shall have
38 the right to reject any and all bids pursuant to rules established for the di-
39 vision.

40 SECTION 9. That Section 67-9210, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 67-9210. AWARD OF CONTRACT. (1) The administrator shall award con-
43 tracts to, and place orders for property with, the lowest responsible
44 bidder. Qualifications for responsibility shall be prescribed by rule.
45 However, environmental, social, and governance standards may not be used as
46 a qualification for responsibility. Prior performance on state contracts
47 may be used to determine qualifications.

1 (2) Where both the bids and quality of property offered are the same,
2 preference shall be given to property of local and domestic production and
3 manufacture or from bidders having a significant Idaho economic presence as
4 defined in section 67-2349, Idaho Code. In connection with the award of any
5 contract for the placement of any order for state printing, binding, engraving
6 or stationery work, the provisions of sections 60-101 and 60-103, Idaho
7 Code, shall apply to the extent that the same may be inconsistent with any re-
8 quirements contained in this section.

9 (3) In awarding contracts, the administrator shall not discriminate
10 against, or grant preferential treatment to, any individual or group on the
11 basis of race, sex, color, ethnicity, or national origin unless permitted by
12 an exception described in section 67-5909A, Idaho Code.

13 (4) All contracts for the acquisition of new property originating from
14 solicitations issued in a calendar year shall be awarded by December 31, ex-
15 cept for solicitations related to emergency requests to acquire property,
16 which shall be awarded no later than February 1 in the following calendar
17 year. For contracts dependent on third-party approval, including but not
18 limited to the centers for medicare and medicaid services, contract awards
19 shall occur as soon as feasible following the completion of any third-party
20 requirements.

21 (5) The administrator may award a contract to two (2) or more qualified
22 bidders to furnish the same or similar property when necessary or convenient
23 to ensure adequate delivery, service, or product compatibility.

24 SECTION 10. That Section [67-9211](#), Idaho Code, be, and the same is hereby
25 repealed.

26 SECTION 11. That Chapter 92, Title 67, Idaho Code, be, and the same is
27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
28 ignated as Section 67-9211, Idaho Code, and to read as follows:

29 67-9211. MULTIPLE AWARDS. (1) When a contract for property has been
30 awarded to two (2) or more bidders in accordance with the provisions of sec-
31 tion 67-9210, Idaho Code, a state agency shall select which bidder to pur-
32 chase the property from based on factors including but not limited to compat-
33 ibility, price, availability, support services, delivery, and past perfor-
34 mance.

35 (2) State agencies that make recurring purchases pursuant to a contract
36 awarded under this section shall perform the analysis outlined in subsection
37 (1) of this section at least annually.

38 SECTION 12. That Section 67-9215, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 67-9215. PRESERVATION AND DISCLOSURE OF RECORDS -- EXCEPTION. (1) The
41 administrator shall preserve all records relating to solicitations in the
42 administrator's office, and information with respect thereto, in such form
43 as the administrator shall prescribe by rule, for a period of three (3) years
44 after the date of final action, or for a period of time as may be prescribed
45 by a record retention guideline schedule approved by the director. Records

1 preserved under the provisions of this section shall be subject to disclo-
2 sure according to chapter 1, title 74, Idaho Code.

3 (2) If a solicitation is canceled prior to award of a contract, the
4 administrator shall immediately return all bids to the submitting vendors
5 or delete bids that were received electronically. Bids returned or deleted
6 pursuant to this subsection shall not be subject to disclosure under chapter
7 1, title 74, Idaho Code.

8 (3) Vendor information provided in a request for information or request
9 for quote under the provisions of section 67-3502, Idaho Code, shall not be
10 subject to disclosure unless the vendors respond to the relevant sollicita-
11 tion as provided for in section 67-9208, Idaho Code.

12 SECTION 13. That Section 67-9230, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 67-9230. PROHIBITIONS. (1) No contract or any interest therein shall
15 be transferred by the contractor to whom such contract is given to any other
16 party without approval in writing by the administrator and by the board of
17 examiners pursuant to section 67-1027, Idaho Code. Transfer of a contract
18 without approval shall cause the annulment of the contract so transferred,
19 at the option of the state. All rights of action, however, for any breach of
20 such contract by the contracting parties are reserved to the state.

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

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

32 (4) No officer or employee shall conspire with a vendor or its agent,
33 and no vendor or its agent shall conspire with an officer or employee, to in-
34 fluence or attempt to influence the award of a contract, or to deprive or at-
35 tempt to deprive a vendor of a contract.

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

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

41 (7) Deprivation, influence or attempts thereat shall not include writ-
42 ten reports, based ~~upon~~ on substantial evidence, sent to the administrator
43 concerning matters relating to the responsibility of vendors.

44 (8) (a) No vendor or related party, or subsidiary, or affiliate of a ven-
45 dor, may submit a bid to obtain a contract to provide property to the
46 state, if the vendor or related party, ~~or~~ affiliate, or subsidiary was
47 paid for services used in preparing the specifications or if the ser-
48 vices influenced the procurement process to prepare the specifications
49 for the property.

1 (b) Nothing in this section shall prohibit a vendor from submitting a
2 bid after providing technical assistance relating to such bid, includ-
3 ing under the provisions of section 67-3502, Idaho Code, providing con-
4 sulting or other services to a state agency, or participating in leg-
5 islative committee meetings related to the property that is the subject
6 of planned solicitation as long as:

7 (i) Such technical assistance, consulting or other services, or
8 participation in legislative committee meetings does not result
9 in bid specifications to be drawn such that only the vendor or re-
10 lated party, or affiliate or subsidiary of the vendor, can meet the
11 bid specifications;

12 (ii) Such technical assistance, consulting or other services,
13 or participation in legislative committee meetings does not oth-
14 erwise provide the vendor or related party, or affiliate or sub-
15 subsidiary of the vendor, with a quantifiable and objective advantage
16 in the bid process; and

17 (iii) Any work product or written documentation produced as a re-
18 sult of the technical assistance, consulting or other services, or
19 participation in legislative committee meeting is accessible to
20 any requestor pursuant to a public records request.

21 (9) No person who has served in a public office within three hundred
22 sixty-five (365) days of a bid submission deadline may participate in the
23 solicitation, bid, or contract process pursuant to the provisions of this
24 chapter on behalf of a vendor.

25 (10) No vendor may employ an individual who has served in public office,
26 or worked in a state agency or institution, within three hundred sixty-five
27 (365) days of winning a bid where such individual participated in the solici-
28 tation, bid, or contract process pursuant to the provisions of this chapter.

29 SECTION 14. That Section 67-9233, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 67-9233. ETHICS IN PROCUREMENT. (1) It is the intent of the legisla-
32 ture that all persons involved in the process of procuring property for the
33 state conduct themselves in a manner that protects the public interest and
34 fosters confidence in the integrity of the process. To that end, this sec-
35 tion shall apply to all such persons, including:

36 (a) State officers, even if the officer or officer's employer is ex-
37 cluded from the definition of "agency" under section 67-9203, Idaho
38 Code;

39 (b) State employees, even if the employee works for an officer, insti-
40 tution or entity that is excluded from the definition of "agency" under
41 section 67-9203, Idaho Code; and

42 (c) Vendors or any person acting on behalf of a vendor.

43 (2) In any matter relating to state procurement, it is an unethical
44 breach of the public trust to:

45 (a) Knowingly attempt to realize personal gain through state office or
46 employment by any conduct inconsistent with this chapter or any other
47 applicable law or rule;

48 (b) Attempt to influence a state officer or employee to violate the pol-
49 icy or provisions of this chapter or any other applicable law or rule; or

- 1 (c) Knowingly violate an applicable law or rule.
 - 2 (3) Subject to due process requirements, and in addition to any other
 - 3 administrative, civil or criminal sanctions provided by law or rule, a state
 - 4 employee's supervisor may impose the following sanctions on the employee for
 - 5 an unethical breach of the public trust:
 - 6 (a) A reprimand or warning, either oral or written;
 - 7 (b) Suspension with or without pay for a specified period of time; or
 - 8 (c) Termination of employment.
 - 9 (4) In addition to any other administrative, civil or criminal sanction
 - 10 provided by law or rule, a vendor who commits an unethical breach of the pub-
 - 11 lic trust, or whose advocate or representative commits an unethical breach
 - 12 of the public trust, may be disqualified pursuant to section 67-9217, Idaho
 - 13 Code.
 - 14 (5) Vendors, employees of vendors, or any person acting on behalf of
 - 15 vendors shall report to the secretary of state any financial expenditures
 - 16 over fifty dollars (\$50.00), including but not limited to reimbursements for
 - 17 meals and travel.
- 18 SECTION 15. This act shall be in full force and effect on and after July
- 19 1, 2026.