

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 56

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO PUBLIC WORKS; AMENDING SECTION 67-5711C, IDAHO CODE, TO REVISE
2 A PROVISION REGARDING COMPETITIVE BIDDING; AND DECLARING AN EMERGENCY
3 AND PROVIDING AN EFFECTIVE DATE.
4

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

6 SECTION 1. That Section 67-5711C, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BID-
9 DING. (1) All construction contracts for public works shall be awarded to the
10 lowest responsible and responsive bidder, subject to the provisions of sec-
11 tion 59-1015, Idaho Code, after receipt of competitive sealed bidding ex-
12 cept as otherwise provided in sections 67-5711B, 67-5711D and 67-5713, Idaho
13 Code.

14 (2) An invitation for bids shall be issued and shall include a project
15 description and all contractual terms and conditions applicable to the pub-
16 lic works.

17 (3) Adequate public notice of the invitation for bids shall be given at
18 least fourteen (14) days prior to the date set forth therein for the opening
19 of bids. Such notice shall include publication at least fourteen (14) days
20 prior to bid opening in a newspaper of general circulation in the area where
21 the work is located.

22 (4) When prequalification is deemed by the department and by the re-
23 spective state agency to be in the best interest of the state, competitive
24 bidding procedures shall be open only to licensed public works contractors
25 that meet preliminary supplemental qualifications. The solicitation for
26 bids in a prequalified bidder public works project shall consist of two
27 (2) stages: an initial stage for identifying prequalified contractors,
28 either prime or specialty contractors, followed by a stage during which
29 bid prices will be accepted only from prequalified contractors. Notice of
30 the prequalification stage shall be given in the same manner that notice of
31 open competitive bidding is provided. Prequalification standards must be
32 premised upon demonstrated technical competence, experience constructing
33 similar facilities, prior experience with the state, past performance re-
34 lated to quality, workmanship and timeliness, reliability, safety record,
35 available nonfinancial resources, equipment and personnel as they relate
36 to the subject project, and overall performance history based upon a con-
37 tractor's entire body of work. Any request for qualifications must include
38 the standards for evaluating the qualifications of prospective bidders.
39 Licensed contractors desiring to be prequalified to bid on a project must
40 submit a written response to a request for qualifications. After a review
41 of qualification submittals, licensed contractors that meet the prequali-
42 fication standards shall be so notified, and licensed contractors that do

1 not meet the prequalification standards shall also be so notified. There-
2 after, bids may be solicited from contractors that meet the prequalification
3 standards. The department may promulgate rules or develop procedures to
4 implement the prequalification process.

5 (5) Bids shall be opened publicly at the time and place designated in
6 the invitation for bids. The amount of each bid and such other relevant in-
7 formation as may be specified by rules, together with the name of each bid-
8 der, shall be entered on a record and the record shall be open to public in-
9 spection. After the time of the award, all bids and bid documents shall be
10 open to public inspection in accordance with the provisions of chapter 1, ti-
11 tle 74 and section 67-9215, Idaho Code.

12 (6) With respect to a project having a written cost estimate of
13 greater than ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand dol-
14 lars (\$50,000) but less than the public works limit established in section
15 67-5711, Idaho Code, the agency, if it does not perform the work with ex-
16 isting physical plant staff, must award a written contract to the lowest
17 responsible and responsive bidder after soliciting at least three (3) doc-
18 umented informal bids from contractors licensed in Idaho to perform public
19 works contracts, if reasonably available. Adequate public notice of the
20 invitation for informal bids shall be given at least seven (7) days prior to
21 the date set forth therein for the receipt of the informal bids. Such notice
22 may include publication at least seven (7) days prior to bid opening in a
23 newspaper of general circulation in the area where the work is located; or
24 the agency may advertise the invitation for bids in appropriate trade jour-
25 nals, and otherwise notify persons believed to be interested in the award
26 of a contract. Informal bids must be submitted by the contractor in writing
27 in response to a prepared written document describing the project's scope
28 of work in sufficient detail so as to enable a contractor familiar with such
29 work to prepare a responsible bid. Nothing herein exempts an agency from
30 the responsibility of utilizing formal plans and specifications if the work
31 involves the public health or safety as described in chapters 3 and 12, title
32 54, Idaho Code. The agency must document receipt of the informal bids in the
33 project file.

34 (7) Any personal property including goods, parts, supplies and equip-
35 ment that is to be supplied or provided by a state agency for use in any public
36 work, project, or preventive maintenance programs, whether the public work,
37 project, or preventive maintenance program is constructed, undertaken or
38 performed by agency in-house personnel, or by delegation pursuant to section
39 67-5710A, Idaho Code, or otherwise provided or supplied by the agency to a
40 contractor, the personal property, goods, parts, supplies or equipment sup-
41 plied or provided by the agency must be purchased or procured by the agency
42 through the division of purchasing in accordance with the Idaho Code.

43 (8) No bid submitted pursuant to this section shall be accepted or de-
44 nied based on environmental, social, and governance standards. For purposes
45 of this subsection, "environmental, social, and governance standards" means
46 procurement standards that screen or score bids, in whole or in part, on sub-
47 jective ethical or sustainability criteria unrelated to the specifications
48 in a solicitation or the qualifications of a bidder.

1 SECTION 2. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2025.