

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 595

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO SERVICE CONTRACTS; AMENDING SECTION 67-2320, IDAHO CODE, TO RE-  
MOVE A PROVISION REGARDING THE USE OF CERTAIN INFORMATION BY A PUBLIC  
AGENCY OR POLITICAL SUBDIVISION.

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

SECTION 1. That Section 67-2320, Idaho Code, be, and the same is hereby  
amended to read as follows:

67-2320. PROFESSIONAL SERVICE CONTRACTS WITH DESIGN PROFESSIONALS,  
CONSTRUCTION MANAGERS AND PROFESSIONAL LAND SURVEYORS. (1) Notwithstanding  
any other provision of law to the contrary, it shall be the policy of this  
state that all public agencies and political subdivisions of the state of  
Idaho and their agents shall make selections for professional engineering,  
architectural, landscape architecture, construction management and pro-  
fessional land surveying services, including services by persons licensed  
pursuant to chapters 3, 12, 30 and 45, title 54, Idaho Code, on the basis of  
qualifications and demonstrated competence and shall negotiate contracts  
or agreements for such services on the basis of demonstrated competence and  
qualifications for the type of services required at fair and reasonable  
prices.

(2) In carrying out this policy, public agencies and political subdivi-  
sions of the state shall use the following minimum guidelines in secur-  
ing contracts for engineering, architectural, landscape architecture, con-  
struction management and land surveying services on projects for which the  
professional service fee is anticipated to exceed the total sum of twenty-  
five thousand dollars (\$25,000), excluding professional services contracts  
previously awarded for an associated or phased project, and the expenditure  
is otherwise exempt from the bidding process provided by law:

(a) Encourage persons or firms engaged in the services being solicited  
to submit statements of qualifications and performance data;

(b) Establish and make available to the public the criteria and proce-  
dures used for the selection of qualified persons or firms to perform  
such services;

(c) Select the persons or firms whom the public agency or political sub-  
division determines to be best qualified to provide the required ser-  
vices, ranked in order of preference, pursuant to the public agency or  
political subdivision's established criteria and procedures;

(d) Negotiate with the highest ranked person or firm for a contract or  
agreement to perform such services at a price determined by the public  
agency or political subdivision to be reasonable and fair to the public  
after considering the estimated value, the scope, the complexity and  
the nature of the services;

1 (e) When unable to negotiate a satisfactory contract or agreement, for-  
2 mally terminate negotiations and undertake negotiations with the next  
3 highest ranked person or firm, following the procedure prescribed in  
4 subsection (2) (d) of this section;

5 (f) When unable to negotiate a satisfactory contract or agreement with  
6 any of the selected persons or firms, continue with the selection and  
7 negotiation process provided in this section until a contract or agree-  
8 ment is reached;

9 (g) When public agencies or political subdivisions solicit proposals  
10 for engineering, architectural, landscape architecture, construction  
11 management or land surveying services for which the professional ser-  
12 vice fee is anticipated to exceed the total sum of twenty-five thousand  
13 dollars (\$25,000), they shall publish public notice in the same manner  
14 as required for bidding of public works construction projects.

15 (h) In fulfilling the requirements of subsections (2) (a) through  
16 (2) (g) of this section, a public agency or political subdivision may  
17 limit its selection from a list of three (3) persons or firms selected  
18 and preapproved for consideration by the public agency or political  
19 subdivision. In establishing a preapproved list a public agency or  
20 political subdivision shall publish notice as set forth in subsection  
21 (2) (g) of this section. When selecting from such list, no notice shall  
22 be required.

23 (i) In fulfilling the requirements of subsections (2) (a) through  
24 (2) (g) of this section, a public agency or political subdivision may  
25 request information concerning a person's or firm's rates, overhead and  
26 multipliers, if any, ~~however such information shall not be used by the~~  
27 ~~public agency or political subdivision for the purpose of ranking in~~  
28 ~~order of preference as required in subsection (2) (c) of this section.~~

29 (3) In securing contracts for engineering, architectural, land-  
30 scape architecture, construction management or land surveying services on  
31 projects for which the professional service fee is anticipated to be less  
32 than the total sum of twenty-five thousand dollars (\$25,000), the public  
33 agency or political subdivision may use the guidelines set forth in para-  
34 graphs (a) through (g) of subsection (2) of this section or establish its own  
35 guidelines for selection based on demonstrated competence and qualifica-  
36 tions to perform the type of services required, followed by negotiation of  
37 the fee at a price determined by the public agency or political subdivision  
38 to be fair and reasonable after considering the estimated value, the scope,  
39 the complexity and the nature of services.

40 (4) When a public agency or political subdivision of the state has pre-  
41 viously awarded a professional services contract to a person or firm for an  
42 associated or phased project the public agency or political subdivision may,  
43 at its discretion, negotiate an extended or new professional services con-  
44 tract with that person or firm.

45 (5) (a) For the purposes of this section, "public agency" shall mean the  
46 state of Idaho and any departments, commissions, boards, authorities,  
47 bureaus, universities, colleges, educational institutions or other  
48 state agencies which have been created by or pursuant to statute other  
49 than courts and their agencies and divisions, and the judicial council  
50 and the district magistrate's commission;

1 (b) For the purposes of this section, "political subdivision" shall  
2 mean a county, city, airport, airport district, school district, health  
3 district, road district, cemetery district, community college dis-  
4 trict, hospital district, irrigation district, sewer district, fire  
5 protection district, or any other district or municipality of any na-  
6 ture whatsoever having the power to levy taxes or assessment, organized  
7 under any general or special law of this state. The enumeration of cer-  
8 tain districts herein shall not be construed to exclude other districts  
9 or municipalities from this definition.