

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 691

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO STATE GOVERNMENT; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 67-5779, IDAHO CODE, TO PROVIDE THAT
3 NOTICE OF INTENT PRIOR TO AN AGREEMENT TAKING EFFECT SHALL BE REQUIRED
4 IN CERTAIN INSTANCES, TO PROVIDE EXEMPTIONS, TO DEFINE A TERM, TO PRO-
5 VIDE FOR NULLIFICATION, AND TO PROVIDE FOR A FORM OF A NOTICE OF INTENT;
6 AMENDING SECTION 67-9203, IDAHO CODE, TO REVISE A DEFINITION; AMEND-
7 ING CHAPTER 92, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
8 67-9234, IDAHO CODE, TO PROVIDE THAT NOTICE OF INTENT PRIOR TO AN AGREE-
9 MENT TAKING EFFECT SHALL BE REQUIRED IN CERTAIN INSTANCES, TO PROVIDE
10 EXEMPTIONS, TO DEFINE A TERM, TO PROVIDE FOR NULLIFICATION, AND TO PRO-
11 VIDE FOR A FORM OF A NOTICE OF INTENT; AMENDING SECTION 67-9234, IDAHO
12 CODE, TO REDESIGNATE THE SECTION; AND DECLARING AN EMERGENCY AND PRO-
13 VIDING AN EFFECTIVE DATE.
14

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

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

19 67-5779. NOTICE OF INTENT PRIOR TO AGREEMENT TAKING EFFECT. (1) Any
20 agency, officer, department, division, bureau, board, commission, and in-
21 stitution of the state, including the public utilities commission and any
22 state institution of higher education, that plans to enter into a contract or
23 agreement with another person or entity in which goods, services, real es-
24 tate, or other property reasonably valued at more than twenty-five million
25 dollars (\$25,000,000) are acquired, sold, or included in a part of the agree-
26 ment shall provide a notice of intent in a public disclosure no less than
27 thirty (30) days prior to such agreement being approved. Notice of intent
28 shall be given in a completed form, as provided in subsection (5) of this sec-
29 tion.

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

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

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

40 (b) A notice of intent form sent by email to all members of the capi-
41 tol correspondents association listed in the most recent edition of the
42 legislative directory and other media representatives at the email ad-

1 dress, if any, provided to the legislative services office. If no such
2 email address is provided, notice pursuant to this paragraph shall not
3 be required;

4 (c) A notice of intent form published on the website of the state entity
5 described in subsection (1) of this section and on a social media blog or
6 page, if any, managed by such institution with an opportunity to allow
7 for public comment on the agreement; and

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

10 (4) Any contract or agreement described in subsection (1) of this sec-
11 tion that is not exempt pursuant to subsection (2) of this section that sub-
12 stantially fails to follow the notice process required by this section shall
13 be null, void, and of no force and effect.

14 (5) A notice of intent form as required by this section shall be as fol-
15 lows:

16 **NOTICE OF INTENT TO ENTER INTO AN AGREEMENT AFFECTING MORE THAN**
17 **\$25 MILLION**

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

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

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

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

37 Dated _____

38 By _____ (Name and Title)

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

41 67-9203. DEFINITIONS. As used in this chapter:

42 (1) "Acquisition" means the process of procuring property.

- 1 (2) "Administrator" means the administrator of the division of pur-
2 chasing as created by section 67-9204, Idaho Code.
- 3 (3) "Agency" means all officers, departments, divisions, bureaus,
4 boards, commissions and institutions of the state, including the public
5 utilities commission, but excluding:
- 6 (a) The legislative and judicial branches of government;
- 7 (b) The governor, lieutenant governor, secretary of state, state con-
8 troller, state treasurer, attorney general and superintendent of pub-
9 lic instruction; and
- 10 (c) Except as provided in section 67-9234, Idaho Code, a state insti-
11 tution of higher education that complies with the provisions of section
12 67-9225, Idaho Code.
- 13 (4) "Bid" means a written offer to perform a contract to sell or other-
14 wise supply property in response to a solicitation.
- 15 (5) "Bidder" means a vendor who has submitted a bid on property to be
16 acquired by the state.
- 17 (6) "Contract" means an agreement for the acquisition of property, in-
18 cluding a purchase order.
- 19 (7) "Contractor" means a vendor who has been awarded a contract.
- 20 (8) "Director" means the director of the department of administration
21 as created by section 67-5701, Idaho Code.
- 22 (9) "Environmental, social, and governance standards" means procure-
23 ment standards that screen or score bids, in whole or in part, on subjective
24 ethical or sustainability criteria unrelated to the specifications in a so-
25 licitation or the qualifications of a bidder.
- 26 (10) "Lowest responsible bidder" means the responsible bidder whose bid
27 reflects the lowest acquisition price to be paid by the state, except that
28 when specifications are valued or comparative performance evaluations are
29 conducted, the results of such examinations and the relative score of valued
30 specifications will be weighed, as set out in the specifications, in deter-
31 mining the lowest acquisition price.
- 32 (11) "Open contract" means a contract awarded by the state through the
33 division of purchasing as a result of a competitive solicitation to one (1)
34 or more vendors who have agreed to allow all agencies to procure specified
35 property under the terms and conditions set forth in the contract.
- 36 (12) "Procure" means to obtain property for state use in a manner other
37 than by gift including, but not limited to, purchase, lease or rent.
- 38 (13) "Property" means goods, services, parts, supplies and equipment,
39 both tangible and intangible, including, but not limited to, designs, plans,
40 programs, systems, techniques and any rights or interests in such property.
- 41 (14) "Sole source" means the only vendor from whom specific property is
42 available to procure.
- 43 (15) "Solicitation" means an invitation to bid, a request for proposal
44 or a request for quote issued pursuant to this chapter for the purpose of
45 procuring property.
- 46 (16) "Specifications" means the standards or requirements for property
47 to be procured as explicitly stated in a solicitation or contract.
- 48 (17) "State institution of higher education" means Boise state univer-
49 sity, Idaho state university or Lewis-Clark state college.

1 (18) "Vendor" means a person or entity capable of supplying property to
2 the state.

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

6 67-9234. NOTICE OF INTENT PRIOR TO AGREEMENT TAKING EFFECT. (1) Any
7 agency of this state, including any state institution of higher education,
8 that plans to enter into a contract or agreement with another person or en-
9 tity in which goods, services, real estate, or other property reasonably
10 valued at more than twenty-five million dollars (\$25,000,000) are acquired,
11 sold, or included in a part of the agreement shall provide a notice of intent
12 in a public disclosure no less than thirty (30) days prior to such agreement
13 being approved. Notice of intent shall be given in a completed form, as pro-
14 vided in subsection (5) of this section.

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

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

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

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

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

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

36 (4) Any contract or agreement described in subsection (1) of this sec-
37 tion that is not exempt pursuant to subsection (2) of this section that sub-
38 stantially fails to follow the notice process required by this section shall
39 be null, void, and of no force and effect.

40 (5) A notice of intent form as provided in this section shall be as fol-
41 lows:

42 **NOTICE OF INTENT TO ENTER INTO AN AGREEMENT AFFECTING MORE THAN**
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45 stitutional officer, or other State of Idaho entity) intends to en-
46 ter into an agreement to obligate by contract, agreement, or other-
47 wise the State of Idaho in the amount of more than \$25 million or in-

1 tends to enter into an agreement concerning a transaction in which
 2 goods, services, real estate, or other property reasonably valued
 3 at more than \$25 million is acquired, sold, or included in a part of
 4 the agreement.

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

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

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

16 Dated _____

17 By _____ (Name and Title)

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

20 ~~67-9234~~ 67-9235. SEVERABILITY. Insofar as a provision of this chapter
 21 or the application of such provision to any person or circumstance is de-
 22 clared invalid for any reason, such declaration shall not affect the valid-
 23 ity of the remaining portions of this chapter.

24 SECTION 5. 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.