

PURCHASING FOR IDAHO'S POLITICAL SUBDIVISIONS

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POLITICAL SUBDIVISIONS - STATUTES

67-2801 Legislative Intent

67-2802 Applicability

67-2803 Exclusions

67-2804 Waiver

67-2805 Procurement of Public Works Construction

67-2806 Procuring Services or Personal Property

67-2807 Joint Purchasing Agreements

67-2808 Emergency & Sole Source Purchases

67-2809 Legislative Intent – Public Works – Agreements – Savings – Severability

Simple right? No. Other Statutes are all over the place.

OTHER PURCHASING STATUTES & RULES

Title 54 – Chapter 19

Public Works Contractors

Title 67 – Chapter 23

Miscellaneous Provisions

Title 67 – Chapter 57

Department of Administration

IDAPA 38.05.01

Rules of the Division of Purchasing

There are a multitude of Statutes in each of these areas.

Some directly include political subdivisions, some directly exclude and some are vague.



CHANGES TO LEGISLATION

These changes were designed to align the political subdivision statutes with the state agencies and with today's dollar value.

2017 STATUTE CHANGES AND ADDITIONS

31-602 EXERCISE OF POWERS – Allowed Counties to delegate purchasing authority.

54-1903 EXEMPTIONS – Provided for additional exemptions to Title 54.

54-1926 PAYMENT & PERFORMANCE BOND REQUIREMENTS – Changed the minimum dollar value when bonds are required to \$50K.

67-2803 EXCLUSIONS – Modified and added exclusions to Title 67.

LEGISLATION CHANGES - continued

67-2805 PROCUREMENT OF PUBLIC WORKS CONSTRUCTION – Modified the dollar values of Informal and Formal bid requirements.

67-2806 PROCURING SERVICES OF PERSONAL PROPERTY – Modified the dollar values of Informal and Formal bid requirements.

67-2806A REQUEST FOR PROPOSAL – This was a new Statute to allow political subdivision to use the RFP process.

2019 STATUTE CHANGES AND ADDITIONS

67-2807 COOPERATIVE PURCHASING - Modified the cooperative purchasing requirements to allow political subdivision to utilize non-profit and for profit purchasing cooperatives throughout the county.

WHAT IT ALL MEANS

PUBLIC WORKS CONSTRUCTION – Title 54

- DEFINITION - Building construction, which is defined as all work in connection with any structure now built, being built, or hereafter built, for the support, shelter and enclosure of persons, chattels, personal and movable property of any kind, requiring in its construction the use of more than two (2) unrelated building trades or crafts. (54-1901)
- **Up to \$50K** – Procurements shall be completed in the best interest of the agency. Conduct purchases assuming your face and name will be in the paper if someone questions the ethics of the purchase.
- **\$50K to \$200K** – Informal Bid Process. Agency must submit a written request for bid to no fewer than 3 licensed public works contractors which must state the due date and time. Bids should be opened on the designated due date and time (*Best Practice*). Bids must be open for no fewer than 3 days. Contracts must be awarded to the lowest responsive bidder.

WHAT IT ALL MEANS - continued

PUBLIC WORKS CONSTRUCTION - continued

- **Above \$200K** – Formal Bid Process. Written Request for Bids must be advertised in the local paper of record. The first notice must be at least 14 days prior to the due date and the second 7 days prior to the due date. Bids must be sealed and opened in public and the designated date and time. Contracts must be awarded to the lowest responsive bidder.
- **Category B** – Pre Qualification Process
- Payment & Performance Bonds AND Public Works Contractors License required for any PW Construction valued at \$50K and above

WHAT IT ALL MEANS - continued

PERSONAL PROPERTY & SERVICES

- Up to \$50K - Procurements shall be completed in the best interest of the agency. Conduct purchases assuming your face and name will be in the paper if someone questions the ethics of the purchase.
- \$50K to \$100K – Informal Bid Process. Agency must submit a written request for bid to no fewer than 3 vendors and must state the due date and time. Bids must be open for no fewer than 3 days. Bids should be opened on the designated due date and time (*Best Practice*). Contracts must be awarded to the lowest responsive bidder.
- Above \$100K – Formal Bid Process. Written Request for Bids must be advertised in the local paper of record. The first notice must be at least 14 days prior to the due date and the second 7 days prior to the due date. Bids must be sealed and opened in public and the designated date and time. Contracts must be awarded to the lowest responsive bidder

WHAT IT ALL MEANS - continued


PERSONAL PROPERTY & SERVICES – continued

- Request for Proposal Option - RFP notification must follow the same requirements above. The RFP must contain the selection criteria and contract terms.
 - Evaluation notes and score sheets are public record
- Purchasing from Cooperatives - May utilize with the approval of Agency's governing board


SPECIAL CIRCUMSTANCES

- ARCHITECTS, ENGINEERS, CONSTRUCTION MANAGERS AND LAND SURVEYORS –
 - These services must be procured using qualifications only.
 - It is illegal to request quotes or bids for these services (67-2320)
 - Services in excess of \$25K must follow the Formal solicitation advertising requirements.

 - SOLE SOURCE – For use when only one vendor (not manufacturer) who can supply public works construction, services or personal property. 67-2808 lists the 8 situations where sole source process is available.

 - EMERGENCY PURCHASE – 67-2808 also lists the instances when an Emergency Purchase may be declared and the process for doing so. The process outlined is not very practical here.
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GENERAL RULES

- **MUST VERIFY BUDGET AVAILABILITY**
 - If purchase is over \$50K – Must purchase at lowest cost.
 - If not taking lowest responsive bid, be prepared for a protest. Very hard to defend, Consult your attorney.
 - Best defense to protests – Written procedures and detailed specifications.
 - Greatest risk – procedural inconsistency.
 - Know the Statutes – where to quickly find them at a minimum.
 - Do not split purchases to avoid bidding requirements.
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EXCLUSIONS (67-2803)

- Coop Agreements – Local bid with Agency Clause - GSA
- Purchases less than \$50K
- Personal or Professional Services (no definitions provided)
- Real Property
- Insurance
- Joint Powers Agreements
- Used personal property
- Goods for resale
- Travel & training
- Idaho Correctional Industries
- Repair of heavy equipment
- Software maintenance, support and licenses of an existing system or platform which was solicited in compliance with state law.

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