



**AUTHORITY TO SIGN CONTRACTS, AGREEMENTS, AND GRANTS  
AND REQUIREMENT TO REPORT CERTAIN CONTRACTS**

**Purpose**

This policy delegates Idaho Transportation Board authority for signing and executing contracts to the Director, thereby allowing for the day to day operation of the Idaho Transportation Department. This policy also designates limits and controls for staff authority regarding contracts, agreements, and grants. Additionally, this policy establishes reporting requirements for the award of construction contracts and non-construction professional service agreements so the Board can monitor contract performance.

**Legal Authority**

The Department shall be responsible for managing contracts, agreements, and grants in accordance with:

**Idaho Code 21-108** – Authority of the Board to enter into contract for Aeronautic facilities as prescribed by the federal authorities.

**Idaho Code 40-309(1)(2)** – Board authority to contract fully in the name of the state with respect to the rights, powers and duties vested in the Board by Title 40.

**Idaho Code 40-310(7)** – Board authority to approve the final plans, specifications, and estimates for state highways and cause contracts for state highways work to be let by contract in the manner provided by law.

**Idaho Code 40-312(2)** – Board authority to make rules and regulations for the expenditure of all moneys appropriated or allocated to it. Board authority to cooperate with counties and highway districts to establish a uniform system of accounting in the expenditure and allocate funds to counties and highway districts as necessary in the construction and maintenance of respective highways.

**Idaho Code 40-505** – The Director shall be the technical and administrative officer of the board and under the board's control, supervision and direction, shall have general supervision and control of all activities, functions and employees of the department. The Director shall enforce all provisions of the laws of the state relating to the department, the rules and regulations of the board, and shall exercise all necessary incidental powers.

**Idaho Code 40-902** – Procedure for letting typical contracts (not design-build contracts) for the construction of state highways and bridges.

**Idaho Code 40-904** – Statutory requirements for design-build contracts for the construction of state highways and bridges.

**Idaho Code 40-905** – Procedure for the department to select construction manager/general contractor firms to award contracts for highway projects.

**Idaho Code 49-201(1)(2)** – Board authority to enter into agreements, compacts or arrangements with other jurisdictions on behalf of Idaho for the purpose of conforming procedures for proportional registration of commercial vehicles and other types of reciprocal agreements.

Idaho Code 67-5711 – Construction, Alterations, Equipping, Furnishing and Repairing of Public Buildings and Works. The Director of the Department of Administration is authorized to secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the construction, alteration, equipping and furnishing, repair, maintenance (other than preventative maintenance) of all state buildings when such work exceeds the sum of one hundred thousand dollars (\$100,000) for labor, materials and equipment (not including design costs, bid advertising and related bidding expenses).

**Idaho Code 67-9203** – Definition of terms used in contracts and agreements in the State Procurement Act as administered by the Department of Administration.

**Idaho Code 67-9205** – Powers and duties of the Administrator for the Division of Purchasing (Department of Administration) regarding state purchases and contracts not made under the Board's contracting authority.

**Idaho Code 67-9206** – Division of Purchasing Administrator may delegate Title 67 state contract and purchasing authority to an agency employee who demonstrates sufficient competence in procurement to satisfy the administrator.

**Idaho Code 67-9208 through 9224** – Uniform procurement and contracting procedures and processes to acquire all services and property not procured by the Board under Title 40 of the Idaho Code. The statutes require competitive bidding and that contracts be awarded to the lowest responsible bidder.

40 U.S.C. sections 1101 through 1104 – Commonly referred to as The Brooks Act (formerly 40 USC 541 through 544) – Requires qualification-based selection for contracting engineering and architectural services to include definitions, selection procedures and negotiations to contract for architectural and engineering services.

**2 CFR 200** – Uniform Administrative Requirements, Cost Principles and Audit requirements for Federal Awards – In the absence of specific federal requirements, procurement will follow normal competitive bidding and award to lowest responsible bidder procurement laws.

23 CFR Part 172 – Defines methods of procurement when federal funds are involved; need to use qualifications-based selection matters for engineering and design related services in the same manner as a contract for architectural and engineering services under the Brooks Act (formerly 40 United States Code sections 541 thru 544).

**23 CFR Part 230** – External Programs, Subpart A: Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (including Supportive Services).

48 CFR Part 31 – Federal acquisitions regulations system governing procurement when federal funding is involved.

### **Delegated Authority**

The Director or delegate shall approve contracts, agreements, and grants, and is authorized to sign all contracts, agreements, and grants required for the proper functioning of the Idaho Transportation Department. Signing authority may be delegated to Executive Officers, Division Administrators, District Engineers, and Section Managers when acting within their jurisdictional duties. Any authority so delegated shall conform to all applicable laws, rules, and regulations. Such authority shall not be exercised by the delegate in the event of a conflict of interest or if apparent personal gain is evidenced.

**Legal Review**

All Department documents of a contractual nature must be in accordance with federal and state laws, and must be reviewed by the Department's Legal section. The Legal section shall review all negotiated contracts or agreements, except for right of way agreements and standard formatted agreements that have been previously reviewed by the Legal section. Standard Department contract templates need not be re-submitted, unless the standard contract template is revised.

**Log or Register of Contracts, Agreement and Grants**

The Director shall instruct originating offices to maintain a log or register of their respective contracts, agreements, or grants.

**Professional Service Agreements**

The Director is authorized to seek necessary professional services outside the Idaho Transportation Department when the required services are not available within the Department.

Selection of professional service firms shall follow federal guidelines when the services involve federal funds. The Department shall establish internal procedures to ensure complete compliance. Procedures for non-federal-aid professional service agreements shall also conform to state statutes and fiscal controls.

The Director or a delegate is authorized to approve:

- Routine engineering and right of way agreements between the Department and any public agency or private firm that do not exceed, nor are expected to exceed, a total amount to be paid of \$1,000,000. Supplemental agreements, including the original agreement, that would bring the Department's obligation to more than \$1,000,000 require Board approval.
- Non-routine professional agreements that do not exceed, nor are expected to exceed, a total amount to be paid of \$50,000. Supplements that would bring the Department's obligation to more than \$50,000 require Board approval.

Term agreement procedures allow consultants to be pre-qualified and approved to perform services on immediate notice. Task agreements are initiated as part of a term agreement, and are for specific, well-defined, and narrow-focused work. The Director or a delegate is authorized to approve task agreements that do not exceed, nor are expected to exceed, \$500,000. Task agreements that exceed \$500,000 and task agreements whose cumulative costs relating to a specific project or two-year term agreement that would bring the Department's obligation to more than \$1,500,000 require Board approval.

All agreements and supplemental agreements shall conform with the other provisions of this policy.

**Requirement to Report Construction Contracts**

The Director, or a delegate, shall approve plans, specifications, estimates, advertisements, and awards for current-year construction projects listed in the Board-approved Idaho Transportation Investment Program (ITIP).

The Board shall be advised monthly of:

- all ITIP professional services that were used during the preceding month;
- all ITIP project advertisement and bid opening dates;

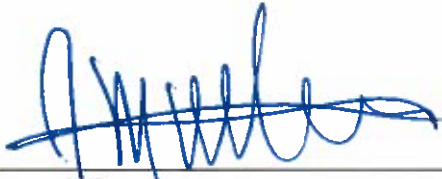
- the obligation status for the current fiscal year; and
- the bid status of highway projects;

The Board shall approve

- the justification for awarding or rejecting contracts when the bid exceeds the engineer's estimate by more than ten percent (10%); or
- bids that exceed the Engineer's estimate by more than 2 million dollars.

**Requirement to Report Non-Construction Professional Service Agreements**

Each month the Chief Administrative Officer shall report to the Board all non-construction professional service agreements entered into by the Department during the previous month. The report may be included in the monthly consent items reviewed by the Board.



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Jerry Whitehead  
Board Chairman

Approved by the Board on:

Date 5/17/2018