



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

Purpose

This policy implements Board Policy 4001 concerning the authority to sign contracts, agreements, and grants, and the requirement to report certain contracts.

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 contracts 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 –Statutory requirements 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 –Statutory requirements for selecting construction manager/general contractor firms for services agreement and subsequent contract for construction of state highways and bridges.
- 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 administrative 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 67-5711C – Construction of Public Projects – Competitive Sealed Bidding. All construction contracts for public works shall be awarded to the lowest responsible and responsive bidder. Statutory requirements for bid invitations, public notice and project award procedures.
- 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 – Regulations governing the procurement, management, and administration for engineering and design related services when federal funds are involved; qualification-based selection is used in the same manner as procurement for architectural and engineering services under the Brooks Act (formerly 40 United States Code sections 541 thru 544).
- 23CFR 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.

I. GENERAL CONDITIONS

All contracts, agreements, or grants shall conform to department policies and procedures for federal and state laws. Executive Officers, Headquarters (HQ) Division Administrators, District Engineers, and Section Managers, by the stipulations of this policy and the Authority Matrix



shown in Exhibit A, may sign contracts, agreements, or grants that are in the best interests of the public, and for the proper functioning of the Idaho Transportation Department. The Chief Administrative Officer is responsible for department conformance procedures. All contracts, agreements, or grants require:

A. Financial Review and Approval

Before signing a department contract or agreement that expends funds, the signing authority shall confirm that funds are available to meet the terms of agreement. Charges and cost distribution for payments shall be according to instructions issued by the Financial Services section. When the contract or agreement is completed, Financial Services shall also be notified of all capital leases and proper budgetary approval shall be obtained.

Prior to applying for grants, approval from the Division of Financial Management (DFM) shall be obtained. This approval shall be coordinated through the Financial Planning office.

B. Log or Register of Contracts, Agreements and Grants

Originating offices will maintain a log or register of their respective contracts, agreements, or grants.

C. Changes to the Provisions or Terms

Changes to the provisions or terms should be handled similar to establishing a new contract, agreement, or grant or in accordance with applicable procedures.

II. HIGHWAY CONTRACTS AND AGREEMENTS

A. Construction and Maintenance Contracts

Plans, Specifications and Estimate (PS&E) shall be approved by District Engineer or delegate prior to bidding and advertisement. The HQ Division Administrator or a delegate will sign contracts greater than \$50,000 for construction work on State Highway System projects and all Local Public Agency projects approved by the Transportation Board.

District Engineer or delegate shall justify awarding or rejecting contracts when the bid exceeds the engineer's estimate by more than ten percent (10%). For bids less than \$500,000, the Chief Engineer shall approve the district's justification when the bid exceeds the engineer's estimate by more than ten percent (10%). Board approval is required on the justification for awarding or rejecting contracts when the bid exceeds the engineer's estimate (EE) by more than ten percent (10%) on bids greater than \$500,000 or bids that exceed the EE by more than \$2,000,000.

B. Professional Service Agreements

Professional services are defined as engineering (i.e. material inspection, bridge inspection, construction inspection, design, environmental, archaeological, geotechnical engineering, transportation planning, research, public involvement, and information technology engineering),



architectural, legal, accounting, claim analysis, auditing, and right of way services where negotiating the price is the accepted practice of the profession.

All professional service agreements related to highway projects are required to be procured through Qualifications Based Selection Procedures (excluding individual task Right of Way service agreements). Professional service agreements shall be processed through Consultant Services section in HQ Highway Design. Professional service agreements for local public agency (LPA) federal-aid projects shall be processed according to the Guidelines for Local Public Agency Projects and noted legal authority within this policy.

Individual task right of way agreements shall be initiated by and processed through the HQ Right of Way section.

District Engineer, HQ Division Administrator or 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 \$2,000,000.
- Work task agreements, including subsequent agreements, that would bring the Department's obligation to more than \$500,000 on a specific project.
- Non-routine minor professional agreements that do not exceed, nor are expected to exceed, a total amount to be paid of \$50,000.

C. State/Local Agreements

Agreements with local government entities for projects off the State Highway System shall be called State/Local Agreements. They shall be initiated and administered by the Districts or LHTAC and processed by the Consultant Services section in HQ Highway Design.

Agreements for local projects administered by the district shall be recommended by the District Engineer or a delegate and approved by the HQ Division Administrator or a delegate.

Agreements for projects administered by the Local Highway Technical Assistance Council (LHTAC) and Ada County Highway District (ACHD) shall be approved by the appropriate Division Administrator or a delegate.

D. Cooperative Agreements

Agreements with local government entities for projects or activities other than locally sponsored projects shall be called Cooperative Agreements. These agreements shall be initiated by Districts or at the HQ offices and shall be processed by the Consultant Services section in HQ Highway Design. The agreements shall be approved by the District Engineer or appropriate HQ Section Manager or a delegate. Cooperative Agreements for construction of state highways shall be in accordance with Board Policy 4029 and Administrative Policy 5029 - Cooperative Agreements for Construction of State Highways.



E. Railroad and Utility Agreements

Agreements with railroads and utility companies shall be initiated, administered, and processed by the District in cooperation with the HQ Planning Services section. These agreements shall be approved by the District Engineer or a delegate.

F. Road Closure and Maintenance Agreements

A Road Closure and Maintenance Agreement with local government entities shall be required for projects where there is a change in maintenance responsibility, or a road closure. The agreement shall be prepared by the Districts and processed through the Consultant Services section in HQ Highway Design. The agreement shall be recommended by the District Engineer and approved by the Chief Engineer. If the agreement is specific to a System Adjustment, it must be in accordance with Board Policy 4061- State Highway System Adjustments.

III. GOODS AND SERVICES CONTRACTS AND AGREEMENTS

Contracts or Agreements for goods and services that are NOT directly related to a highway infrastructure good or service project shall be approved and executed by the Purchasing Agent or delegate in the Business and Support Management section. These contracts or agreements shall be administered and managed in partnership with the requesting Districts or Divisions. Goods and services contracts or agreements shall be in compliance with procedures established by the Idaho Department of Administration, Division of Purchasing.

Goods and services may include but are not limited to, activities such as training, information technology systems, commodities, routine and preventative maintenance services, equipment, non-construction professional services, highway maintenance sand and salt acquisition and staging, highway striping paint, highway signs, and other highway non-professional services under the authority of Idaho Statute Title 40 Highway and Bridges etc.

IV. NON-PROJECT HIGHWAY RELATED CONTRACTS AND AGREEMENTS

All contracts or agreements for non-project, highway-related public works shall be initiated, executed, administered, and project-managed by the Districts in partnership with the Business and Support Management section. All contracts or agreements shall be executed and administered by the Business and Support Management Facilities Program Manager. This may include, but is not limited to, project service-related activities, such as: rest area repair, right-of-way maintenance, non-project equipment rental, and right-of-way noxious weed control.

V. BUILDING FACILITY PUBLIC WORKS CONTRACTS AND AGREEMENTS

All building facility public works projects shall be managed by the Facility Management Unit which is within the Business and Support Management section in partnership with the respective Districts. All contracts or agreements shall be executed by a Facility Management Contracting Officer and administered by the Facilities Program Manager. This work may include, but is not limited to, administrative building repairs and/or alterations, non-administrative buildings construction and/or repair, landscaping, or any other licensed building trade requiring a building permit under the authority of Idaho Statute 67-5711.



Design professional services for Architectural, Engineering, Surveying and Construction Management services for building facility public works projects shall be procured through Facility Management Unit, executed by a Facility Management Contracting Officer, and administered by the Facilities Program Manager.

VI. RESEARCH AGREEMENTS

Agreements between the Department and any public agency or private firm for research-eligible services and activities shall be initiated and processed by HQ Planning Services. Agreements that do not exceed, nor are expected to exceed, a total amount to be paid of \$500,000 shall be approved by the HQ Division Administrator or delegate.

VII. GRANT PROGRAM AGREEMENTS

The appropriate HQ Division Administrator, HQ Section Manager, or a delegate, that oversees a grant program for the department are authorized to sign agreements and documents necessary for the grant programs administered by their respective Division or Section.

VIII. INFORMATION TECHNOLOGY AND COMPUTER PURCHASE AND SERVICE CONTRACTS OR AGREEMENTS

Contracts or agreements for information technology and computer purchases or services shall be obtained through Business and Support Management and approved by Enterprise Technology Services and the Office of Information Technology. In addition, the contract or agreement shall be cleared through the Idaho Office of Information Technology Services, Office of the Governor, and the Division of Purchasing. The contracts or agreements shall be executed as outlined in Section III, GOODS AND SERVICES CONTRACTS AND AGREEMENTS.

IX. SPECIAL EVENT AGREEMENTS

HQ Division Administrators, District Engineers, or delegate, may sign agreements for use of highways or other department facilities for special events. The approval shall be as designated in Administrative Policy 5546, Special Events on State Highways.

X. MEMORANDUM OF UNDERSTANDING OR MEMORANDUM OF AGREEMENT

Memorandums of Understanding (MOU) and Memorandums of Agreement (MOA) are agreements established between the Idaho Transportation Department (ITD) and other entities (nations, federal, states, Idaho state agencies or local governmental agencies, businesses, non-governmental organizations, etc.) . The approval shall be as designated in Administrative Policy 5007, Memorandum of Understanding or Memorandum of Agreement.

XI. AGREEMENTS, COMPACTS, OR ARRANGEMENTS WITH OTHER STATES ON BEHALF OF IDAHO

The Motor Vehicles Administrator or delegate is authorized to sign agreements, compacts, or arrangements on behalf of Idaho for vehicle reciprocity, motor carrier enforcement, handicap parking reciprocity, special permit for size and weight permitting reciprocity, proportional registration of commercial vehicles, and other reciprocal agreements relating to driver licensing



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and the movement of vehicles, if the agreement provides for equitable treatment of the citizens of Idaho by the other participating jurisdiction(s).

A handwritten signature in blue ink, appearing to read 'L. Scott Stokes', written over a horizontal line.

L. Scott Stokes
Director

Date: 5/18/2016