

## SF0074 - Professional services procurement.

The current version of the bill text is displayed below. To view all versions of the bill with page and line numbers, use the PDF documents located to the right, under "Bill Versions & Resources."

ORIGINAL SENATE  
FILE NO. SF0074

ENGROSSED

ENROLLED ACT NO. 70, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2019 GENERAL SESSION

AN ACT relating to professional services procurement; modifying residency requirements related to the procurement of professional architectural, engineering and land surveying services as specified; providing a definition; modifying applicability of residency requirements; modifying contract requirements as specified; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 9-2-1028(a)(i), by creating a new paragraph (vi) and by renumbering (vi) to (vii), 9-2-1031(a) and by creating new subsections (f) and (g) and 9-2-1032 by creating a new subsection (g) are amended to read:

**9-2-1028. Definitions.**

(a) As used in this act:

(i) "Agency" means any state office, department, board, commission, institution or other operating entity of the state excluding, except as otherwise provided in W.S. 9-2-1031(f) and 9-2-1032(g), the University of Wyoming, community college districts, school districts, the Wyoming business council and the Wyoming department of transportation;

(vi) "Resident firm" means a firm that:

(A) Possesses a physical office within the state that is staffed by individuals with professional and technical expertise who are employed in the state; and

(B) Certifies in the firm's current statement of qualifications or application that if selected for the project the percentage of the contract costs for professional services specified in this subparagraph shall be performed by individuals or consultants employed in the state who will perform

their labor or professional services provided under the contract within the boundaries of the state. The individuals who will perform the professional services shall possess the professional and technical qualifications necessary to perform the work required by the contract. The following percentages shall apply to this subparagraph:

(I) For any projects with project contract costs in an amount equal to twenty million dollars (\$20,000,000.00) or less - fifty percent (50%) of the contract costs;

(II) For capital construction projects with construction contract costs in an amount greater than twenty million dollars (\$20,000,000.00) but less than forty million dollars (\$40,000,000.00) - forty percent (40%) of the contract costs;

(III) For capital construction projects with construction contract costs in an amount equal to forty million dollars (\$40,000,000.00) or more - thirty percent (30%) of the contract costs.

~~(vi),(vii)~~ "This act" means W.S. 9-2-1027 through 9-2-1033.

#### **9-2-1031. Selection procedures.**

(a) For each proposed project, the principal representative of the agency for which the project is proposed shall evaluate current statements of qualifications and performance data of firms on file with the department or the agency, together with any applications submitted by other qualified firms, and shall select in accordance with subsection (f) of this section not less than three (3) firms considered qualified to perform the required professional services. ~~Consideration in each selection process by the principal representative shall be based upon the ability of professional personnel, past performance, willingness to meet time requirements, location, residency, current and projected work loads, the volume of work previously awarded to the firm by the agency, and the equitable distribution of contracts among qualified firms.~~ The agency shall provide a complete description of the work to the firms selected. These firms shall submit an unpriced proposal to do the work. ~~For purposes of this subsection, residency does not require satisfaction of the elements contained in W.S. 16-6-101(a)(i).~~

(f) Every agency shall base selection of a firm for professional services in accordance with the following:

(i) Except as provided in paragraph (ii) of this subsection, the agency shall select firms that are resident firms as defined by this act. Consideration between these firms shall be based upon:

(A) The ability of professional personnel;

(B) Past performance;

(C) Ability to meet time requirements;

(D) Location;

(E) Current and projected work loads;

(F) The volume of work previously awarded to the firm by the agency;

(G) The equitable distribution of contracts among the firms considered qualified.

(ii) If less than three (3) firms on file, together with any applications submitted for the project, are resident firms as defined by this act or if the resident firms are determined not qualified by the agency, consideration shall be based upon the considerations listed in subparagraphs (i)(A) through (G) of this subsection;

(iii) For purposes of this subsection, agency as defined in this act shall include the University of Wyoming, community college districts, the Wyoming business council and the Wyoming department of transportation when the proposed project is funded in whole or in part with state funds.

(g) The provisions of this section giving preference to resident firms shall not apply to the extent any proposed project will utilize funds, the receipt of which is conditioned to prohibit a residency preference.

**9-2-1032. Contract procedure.**

(g) Each contract for professional services entered into by an agency shall contain a certification by the resident firm providing professional services that the firm will comply with W.S. 9-2-1028(a)(vi)(B). For purposes of this subsection, agency as defined in this act shall include the University of Wyoming, community college districts, the Wyoming business council and the Wyoming department of transportation when the proposed project is funded in whole or in part with state funds.

**Section 2.** This act shall only apply to the procurement of professional services on or after July 1, 2019.

**Section 3.** This act is effective July 1, 2019.

(END)

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Speaker of the House

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President of the Senate

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Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

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Chief Clerk

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Sponsor:






Senator Case

Co-Sponsor:

Senator(s) Anselmi-Dalton, Kinskey, Pappas  
Representative(s) Loucks, Sommers

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Bill Versions and Resources:

Introduced  Version initially introduced on the floor for debate.  
Engrossed  Version that includes adopted amendments from first chamber.  
Enrolled  Version passed in both chambers with all adopted amendments.  
Fiscal note  Estimate of the fiscal and personnel impact to the state for the bill.  
Digest  A summary of proceedings for the bill as it moves through the process.

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Last Action:

Assigned Chapter Number 185

Last Action Date:

03/08/2019

Scheduled Committee Meetings

No Meetings Currently Scheduled

Scheduled Floor Sessions

No Floor Sessions Currently Scheduled

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Session Laws Chapter Number:

CH0185  
Adopted: 3/8/2019  
Effective: 7/1/2019

<b>Date</b>	<b>Action</b>	<b>Location Vote</b>
03/08/2019	Assigned Chapter Number 185	LSO
03/08/2019	Governor Signed SEA No. 0070	Governor

02/27/2019 H Speaker Signed SEA No. 0070	House	
02/27/2019 S President Signed SEA No. 0070	Senate	
02/26/2019 Assigned Number SEA No. 0070	LSO	
02/26/2019 S Concur:Recede from Non-Concurrence pursuant to JR 2-4 Passed by Roll Call 23-2-5-0-0	Senate	Details
02/26/2019 H Appointed JCC01 Members	House	
02/26/2019 S Appointed JCC01 Members	Senate	
02/26/2019 S Concur:Failed 1-27-2-0-0	Senate	Details
02/26/2019 S Received for Concurrence	Senate	
02/25/2019 H 3rd Reading:Passed 55-4-1-0-0	House	Details
02/22/2019 H 3rd Reading:Laid Back	House	
02/21/2019 H 2nd Reading:Passed	House	
02/20/2019 H COW:Passed	House	
02/15/2019 H Placed on General File	House	
02/15/2019 H02 - Appropriations:Recommend Amend and Do Pass 7-0-0-0-0	House	Details
02/06/2019 H Introduced and Referred to H02 - Appropriations	House	
01/28/2019 H Received for Introduction	House	
01/24/2019 S 3rd Reading:Passed 28-0-2-0-0	Senate	Details
01/23/2019 S 2nd Reading:Passed	Senate	
01/22/2019 S 2nd Reading:Laid Back	Senate	
01/18/2019 S COW:Passed	Senate	
01/16/2019 S COW:Laid Back	Senate	
01/15/2019 S Placed on General File	Senate	
01/15/2019 S02 - Appropriations:Recommend Amend and Do Pass 5-0-0-0-0	Senate	Details
01/10/2019 S Introduced and Referred to S02 - Appropriations	Senate	
01/10/2019 S Received for Introduction	Senate	
01/09/2019 Bill Number Assigned	LSO	

## House Amendments

<u>Amendment</u> ↑	<u>Origin</u>	<u>Sponsor</u>	<u>Status</u>
<a href="#">SF0074H3001</a>	3rd reading	Representative Larsen	Adopted
<a href="#">SF0074HS001</a>	Standing Committee	House Appropriations Committee	Corrected

## Senate Amendments

<u>Amendment</u> ↑	<u>Origin</u>	<u>Sponsor</u>	<u>Status</u>
<a href="#">SF0074S2001</a>	2nd reading	Senator Von Flatern	Corrected, Adopted
<a href="#">SF0074SS001</a>	Standing Committee	Senate Appropriations Committee	Adopted
<a href="#">SF0074SW001</a>	Committee of the Whole	Senator Von Flatern	Adopted

Professional services procurement.

19LSO-0345, 1.0

### FISCAL NOTE

The fiscal impact, in the form of additional expenditures, is indeterminable.

This bill would result in an undetermined amount of additional expenditures as the State Construction Department (Department) would have to develop a process to comply with the bill. The Department would have to incorporate into the procurement documents a methodology of collecting each firm's revenue received to allow the selection committee to evaluate the bill's requirement that firms will perform 50% of the contract for professional services using in-state staff or contractors. Once a process is established, only a minimal amount of extra efforts would be required by the selection committee to comply with the bill in each selection process. It is assumed that an audit process would not be involved in verifying the information provided by the consulting firms.

According to the Wyoming Department of Transportation (WYDOT), WYDOT utilizes federal funds for approximately 65% of its consultant contracts (80% of the total contract dollars). Federal regulations pre-empt state law under these circumstances. 23CFR172.7(b)(1)(i), states "State Transportation Agencies (STAs) or other recipients and their subrecipients shall comply with procurement requirements established in State and local laws, regulations, policies, and procedures that are not addressed by or are not in conflict with applicable Federal laws and regulations as specified in 2 CFR part 1201."

For these federally-funded contracts, Federal regulations prohibit an in-state versus out-of-state "Resident Firm" preference. Therefore, WYDOT could not implement this portion of the bill in these cases.

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Meredith Asay, University of Wyoming, (307) 766-4121;  
Russ Noel, Dept. of Administration & Information, 777-8659)

SF0074

[S02 - Appropriations:Recommend Amend and Do Pass 5-0-0-0](#)

**Vote recorded:** 1/15/2019 2:12PM

**Ayes:** AGAR, GIERAU, HICKS, KINSKEY, BEBOUT

**Nays:**