

Part 14 Transportation Contracts

63G-6a-1401 Title.

This part is known as "Transportation Contracts."

Enacted by Chapter 347, 2012 General Session

63G-6a-1402 Procurement of design-build transportation project contracts.

- (1) As used in this section:
 - (a) "Design-build transportation project contract" means the procurement of both the design and construction of a transportation project in a single contract with a company or combination of companies capable of providing the necessary engineering services and construction.
 - (b) "Transportation agency" means:
 - (i) the Department of Transportation;
 - (ii) a county of the first or second class, as defined in Section 17-50-501;
 - (iii) a municipality of the first class, as defined in Section 10-2-301;
 - (iv) a public transit district that has more than 200,000 people residing within its boundaries; and
 - (v) a public airport authority.
- (2) Except as provided in Subsection (3), a transportation agency may award a design-build transportation project contract for any transportation project that has an estimated cost of at least \$50,000,000 by following the requirements of this section.
- (3)
 - (a) The Department of Transportation:
 - (i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and
 - (ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.
 - (b) A public transit district that has more than 200,000 people residing within its boundaries:
 - (i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and
 - (ii) shall pass ordinances or a resolution establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.
 - (c) A design-build transportation project contract authorized under this Subsection (3) is not subject to the estimated cost threshold described in Subsection (2).
 - (d) A design-build transportation project contract may include provision by the contractor of operations, maintenance, or financing.
- (4)
 - (a) Before entering into a design-build transportation project contract, a transportation agency may issue a request for qualifications to prequalify potential contractors.
 - (b) Public notice of the request for qualifications shall be given in accordance with board rules.
 - (c) A transportation agency shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least demonstrate their:
 - (i) construction experience;
 - (ii) design experience;

- (iii) financial, manpower, and equipment resources available for the project; and
- (iv) experience in other design-build transportation projects with attributes similar to the project being procured.
- (d) The request for qualifications shall identify the number of eligible competing proposers that the transportation agency will select to submit a proposal, which may not be less than two.
- (5) The transportation agency shall:
 - (a) evaluate the responses received from the request for qualifications;
 - (b) select from their number those qualified to submit proposals; and
 - (c) invite those respondents to submit proposals based upon the transportation agency's request for proposals.
- (6) If the transportation agency fails to receive at least two qualified eligible competing proposals, the transportation agency shall readvertise the project.
- (7) The transportation agency shall issue a request for proposals to those qualified respondents that:
 - (a) includes a scope of work statement constituting an information for proposal that may include:
 - (i) preliminary design concepts;
 - (ii) design criteria, needs, and objectives;
 - (iii) warranty and quality control requirements;
 - (iv) applicable standards;
 - (v) environmental documents;
 - (vi) constraints;
 - (vii) time expectations or limitations;
 - (viii) incentives or disincentives; and
 - (ix) other special considerations;
 - (b) requires submitters to provide:
 - (i) a sealed cost proposal;
 - (ii) a critical path matrix schedule, including cash flow requirements;
 - (iii) proposal security; and
 - (iv) other items required by the department for the project; and
 - (c) may include award of a stipulated fee to be paid to offerors who submit unsuccessful proposals.
- (8) The transportation agency shall:
 - (a) evaluate the submissions received in response to the request for proposals from the prequalified offerors;
 - (b) comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and
 - (c) after considering price and other identified factors, award the contract to the responsive and responsible offeror whose proposal is most advantageous to the transportation agency or the state.

Amended by Chapter 196, 2014 General Session

63G-6a-1403 Procurement of tollway development agreements.

- (1) As used in this section, "tollway development agreement" is as defined in Section 72-6-202.
- (2) The Department of Transportation and the Transportation Commission:
 - (a) may solicit a tollway development agreement proposal by following the requirements of this section;

- (b) may award a solicited tollway development agreement contract for any tollway project by following the requirements of this section; and
 - (c) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of tollway development agreement proposals in addition to those required by this section.
- (3)
- (a) Before entering into a tollway development agreement, the Department of Transportation may issue a request for qualifications to prequalify potential contractors.
 - (b) Public notice of the request for qualifications shall be given in accordance with board rules.
 - (c) The Department of Transportation shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least provide:
 - (i) a demonstration of their experience with other transportation concession projects with attributes similar to the project being procured;
 - (ii) a financial statement of the firm or consortium of firms making the proposal;
 - (iii) a conceptual project development plan and financing plan;
 - (iv) the legal structure of the firm or consortium of firms making the proposal;
 - (v) the organizational structure for the project; and
 - (vi) a statement describing why the firm or consortium of firms is best qualified for the project.
 - (d) The request for qualifications shall identify the number of eligible competing offerors that the Department of Transportation will select to submit a proposal.
- (4) The Department of Transportation shall:
- (a) evaluate the responses received from the request for qualifications;
 - (b) select from their number those qualified to submit proposals; and
 - (c) invite those respondents to submit proposals based upon the Department of Transportation's request for proposals.
- (5) The Department of Transportation shall issue a request for proposals to those qualified respondents that may require, as appropriate for the procurement:
- (a) a description of the proposed project or projects;
 - (b) a financial plan for the project, including:
 - (i) the anticipated financial commitment of all parties;
 - (ii) equity, debt, and other financing mechanisms;
 - (iii) an analysis of the projected return, rate of return, or both; and
 - (iv) the monetary benefit and other value to a government entity;
 - (c) assumptions about user fees or toll rates;
 - (d) a project development and management plan, including:
 - (i) the contracting structure;
 - (ii) the plan for quality management;
 - (iii) the proposed toll enforcement plan; and
 - (iv) the plan for safety management; and
 - (e) that the proposal to comply with the minimum guidelines for tollway development agreement proposals under Section 72-6-204.
- (6) The Department of Transportation and the Transportation Commission:
- (a) shall evaluate the submissions received in response to the request for proposals from the prequalified offerors;
 - (b) shall comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and

(c) may, after considering price and other identified factors and complying with the requirements of Section 72-6-206, award the contract to the responsive and responsible offeror whose proposal is most advantageous to the state.

Renumbered and Amended by Chapter 347, 2012 General Session