

BIDDING PROCESS FOR SCHOOL DISTRICT CONSTRUCTION

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Gordon E. Snow

AN ACT RELATING TO PUBLIC SCHOOLS; PROVIDING THAT IF A LOCAL SCHOOL BOARD DETERMINES TO USE A CONSTRUCTION MANAGER/GENERAL CONTRACTOR AS ITS METHOD OF CONSTRUCTION CONTRACTING MANAGEMENT ON PROJECTS WHERE THE TOTAL ESTIMATED ACCUMULATIVE COST EXCEEDS \$80,000, IT SHALL USE ONE OF THE SOURCE SELECTION METHODS PROVIDED FOR IN SECTIONS 63-56-20 THROUGH 63-56-36.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53A-20-101, as last amended by Chapter 51, Laws of Utah 1998

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-20-101** is amended to read:

53A-20-101. Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.

(1) (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least ten days before the bid due date.

(b) The board shall have the advertisement published in a newspaper having general circulation throughout the state and in appropriate construction trade publications that offer free listings.

(c) A similar advertisement is required in a newspaper published or having general circulation in any city or county that would be affected by the proposed project.

(d) The advertisement shall:

(i) require sealed proposals for the building project in accordance with plans and specifications furnished by the local school board;

(ii) state where and when the proposals will be opened and shall reserve the right of the board to reject any and all proposals; and

(iii) require a certified check or bid bond of not less than 5% of the bid to accompany the bid.

(2) (a) The board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.

(b) If satisfactory bids are received, the board shall award the contract to the lowest responsible bidder.

(c) If none of the proposals are satisfactory, all shall be rejected.

(d) The board shall again advertise in the manner provided in this section.

(e) If, after advertising a second time no satisfactory bid is received, the board may proceed under its own direction with the required project.

(3) (a) The check or bond required under Subsection (1)(d) shall be drawn in favor of the local school board.

(b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.

(4) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63-56-38.

(5) (a) A local school board may require in the proposed contract that at least 10% of the contract price be withheld until the project is completed and accepted by the board.

(b) If money is withheld, the board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.

(c) This money shall be paid upon completion of the project and acceptance by the board.

(6) (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.

(b) The board may use its resources if no satisfactory bids are received under this section.

(7) If the local school board determines in accordance with Section 63-56-36 to use a construction manager/general contractor as its method of construction contracting management on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the construction

manager/general contractor using one of the source selection methods provided for in Sections 63-56-20 through 63-56-36.

[~~(7)~~] (8) A local school board member may not have a direct or indirect financial interest in the construction project contract.