

**GOVERNMENT COMPETITION WITH PRIVATE
SECTOR**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Leonard M. Blackham

AN ACT RELATING TO PROCUREMENT OF ARCHITECT AND ENGINEERING SERVICES; PROHIBITING STATE AGENCIES, HIGHER EDUCATION INSTITUTIONS, COUNTIES, MUNICIPALITIES, LOCAL SCHOOL DISTRICTS, AND SPECIAL DISTRICTS FROM AWARDING ARCHITECT/ENGINEERING SERVICES CONTRACTS TO HIGHER EDUCATION ENTITIES IN CERTAIN CIRCUMSTANCES; AND PROHIBITING HIGHER EDUCATION ENTITIES FROM SUBMITTING A PROPOSAL TO PERFORM ARCHITECT/ENGINEERING SERVICES IN CERTAIN CIRCUMSTANCES.

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

ENACTS:

10-7-20.5, Utah Code Annotated 1953

17-5-260.5, Utah Code Annotated 1953

17A-1-802, Utah Code Annotated 1953

53A-20-101.5, Utah Code Annotated 1953

53B-16-104, Utah Code Annotated 1953

63-56-44.5, Utah Code Annotated 1953

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

Section 1. Section **10-7-20.5** is enacted to read:

10-7-20.5. Restrictions on municipality procurement of architect engineer services.

(1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) When a municipality elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the municipality's competitive procurement process; and

(b) the municipality may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Section 2. Section **17-5-260.5** is enacted to read:

17-5-260.5. Restrictions on county procurement of architect engineer services.

(1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) When a county elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the county's competitive procurement process; and

(b) the county may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Section 3. Section **17A-1-802** is enacted to read:

17A-1-802. Restrictions on special district procurement of architect engineer services.

(1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) When a special district elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the special district's competitive procurement process; and

(b) the special district may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of

one.

Section 4. Section **53A-20-101.5** is enacted to read:

53A-20-101.5. Restrictions on local school district procurement of architect engineer services.

(1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) When a local school district elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the state agency's competitive procurement process; and

(b) the local school district may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Section 5. Section **53B-16-104** is enacted to read:

53B-16-104. Restrictions on higher education entities bidding on architect or engineering services in public procurement projects.

(1) As used in this section:

(a) "Architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(b) "Government entity" means a state agency, an institution of higher education, a county, a municipality, a local school district, or a special district.

(2) When a government entity elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to

the government entity's competitive procurement process; and

(b) the government entity may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

(3) (a) Subject to the prohibition contained in Subsection (3)(b), an employee of a higher education entity may, in a private capacity, submit a proposal in response to the competitive procurement process.

(b) An employee of a higher education entity may not use any supplies, materials, or other resources owned by, or any persons matriculating at, attending, or employed by, the higher education entity in:

(i) preparing a response to the competitive procurement process; or

(ii) completing any work, assignment, or contract awarded to the employee resulting from that competitive procurement process.

Section 6. Section **63-56-44.5** is enacted to read:

63-56-44.5. Restrictions on state agency procurement of architect engineer services.

(1) Except as provided in Subsection (2), when a public procurement unit, in accordance with Section 63-56-42, elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the public procurement unit's competitive procurement process; and

(b) the public procurement unit may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

(2) A public procurement unit need not comply with the requirements of Subsection (1) when the public procurement unit is procuring architect or engineer services for contracts related to research activities and technology transfer.