

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **11-39-103**, as last amended by Laws of Utah 2009, First Special Session, Chapter 5

29 **11-39-107**, as last amended by Laws of Utah 2008, Chapter 382

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

32 Section 1. Section **11-39-103** is amended to read:

33 **11-39-103. Requirements for undertaking a building improvement or public**  
34 **works project -- Request for bids -- Authority to reject bids.**

35 (1) If the estimated cost of the building improvement or public works project exceeds  
36 the bid limit, the local entity shall, if it determines to proceed with the building improvement or  
37 public works project:

38 (a) request bids for completion of the building improvement or public works project  
39 by:

40 (i) (A) publishing notice at least twice in a newspaper published or of general  
41 circulation in the local entity at least five days before opening the bids; or

42 (B) if there is no newspaper published or of general circulation in the local entity as  
43 described in Subsection (1)(a)(i)(A), posting notice at least five days before opening the bids in  
44 at least five public places in the local entity and leaving the notice posted for at least three days;  
45 and

46 (ii) publishing notice in accordance with Section 45-1-101, at least five days before  
47 opening the bids; and

48 (b) except as provided in Subsection ~~§~~→ [(3)] (4) ←~~§~~ , enter into a contract for the  
48a completion of the

49 building improvement or public works project with:

50 (i) the lowest responsive responsible bidder; or

51 (ii) except as provided in Subsection (2), for a design-build project [~~that the~~]  
52 formulated by a local entity [began formulating before March 1, 2004 and with respect to  
53 which a contract is entered into before September 1, 2004] subject to Section 11-39-107, a  
54 responsible bidder that:

55 (A) offers design-build services; and

56 (B) satisfies the local entity's criteria relating to financial strength, past performance,

57 integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder  
58 to perform fully and in good faith the contract requirements for a design-build project.

59 (2) A local entity may not enter into a contract for design-build services if:

60 (a) the local entity is not subject ~~§~~ to ~~←~~§ Section 11-39-107; and

61 (b) the local entity did not enter a design-build services contract before September 1,  
62 2004.

63 [~~(2)~~] (3) (a) Each notice under Subsection (1)(a) shall indicate that the local entity may  
64 reject any or all bids submitted.

65 (b) (i) The cost of a building improvement or public works project may not be divided  
66 to avoid:

67 (A) exceeding the bid limit; and

68 (B) subjecting the local entity to the requirements of this section.

69 (ii) Notwithstanding Subsection [~~(2)~~] (3)(b)(i), a local entity may divide the cost of a  
70 building improvement or public works project that would, without dividing, exceed the bid  
71 limit if the local entity complies with the requirements of this section with respect to each part  
72 of the building improvement or public works project that results from dividing the cost.

73 [~~(3)~~] (4) (a) The local entity may reject any or all bids submitted.

74 (b) If the local entity rejects all bids submitted but still intends to undertake the  
75 building improvement or public works project, the local entity shall again request bids by  
76 following the procedure provided in Subsection (1)(a).

77 (c) If, after twice requesting bids by following the procedure provided in Subsection  
78 (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing  
79 body may undertake the building improvement or public works project as it considers  
80 appropriate.

81 Section 2. Section **11-39-107** is amended to read:

82 **11-39-107. Procurement code.**

83 (1) This chapter may not be construed to:

84 (a) prohibit a county or, subject to Subsection (2), a city of the first class legislative  
85 body from adopting the procedures of the procurement code; or

86 (b) limit the application of the procurement code to a local district or special service  
87 district.