

WORKFORCE SERVICES JOB LISTINGS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill requires that all government entities and private companies that contract with a government entity advertise job openings on the state website.

Highlighted Provisions:

This bill:

- requires all government entities and private companies that contract with any government entity to advertise job openings on the state's website; and
- adds a provision to the procurement code requiring that language be added into contracts and request for proposals that also require contractors to advertise job openings on the state website for the duration of the contract.

Money Appropriated in this Bill:

None

Other Special Clauses:

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2013.

Utah Code Sections Affected:

AMENDS:

35A-1-102, as last amended by Laws of Utah 2012, Chapter 41

35A-2-203, as last amended by Laws of Utah 2011, Chapter 188

63G-6a-1202 (Effective 05/01/13), as last amended by Laws of Utah 2012, Chapter



28 330 and renumbered and amended by Laws of Utah 2012, Chapter 347

29

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

31 Section 1. Section **35A-1-102** is amended to read:

32 **35A-1-102. Definitions.**

33 Unless otherwise specified, as used in this title:

34 (1) "Client" means an individual who the department has determined to be eligible for
35 services or benefits under:

- 36 (a) Chapter 3, Employment Support Act; and
- 37 (b) Chapter 5, Training and Workforce Improvement Act.

38 (2) "Department" means the Department of Workforce Services created in Section
39 35A-1-103.

40 (3) "Economic service area" means an economic service area established in accordance
41 with Chapter 2, Economic Service Areas.

42 (4) "Employment assistance" means services or benefits provided by the department
43 under:

- 44 (a) Chapter 3, Employment Support Act; and
- 45 (b) Chapter 5, Training and Workforce Improvement Act.

46 (5) "Employment center" is a location in an economic service area where the services
47 provided by an economic service area under Section 35A-2-201 may be accessed by a client.

48 (6) "Employment counselor" means an individual responsible for developing an
49 employment plan and coordinating the services and benefits under this title in accordance with
50 Chapter 2, Economic Service Areas.

51 (7) "Employment plan" means a written agreement between the department and a client
52 that describes:

- 53 (a) the relationship between the department and the client;
- 54 (b) the obligations of the department and the client; and
- 55 (c) the result if an obligation is not fulfilled by the department or the client.

56 (8) "Executive director" means the executive director of the department appointed
57 under Section 35A-1-201.

58 (9) "Government entity" means the state, any county, municipality, local district,

59 special service district, or any other political subdivision or administrative unit of the state,
60 including state institutions of education.

61 [~~9~~] (10) "Public assistance" means:

- 62 (a) services or benefits provided under Chapter 3, Employment Support Act;
- 63 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;
- 64 (c) foster care maintenance payments provided from the General Fund or under Title
65 IV-E of the Social Security Act;
- 66 (d) SNAP benefits; and
- 67 (e) any other public funds expended for the benefit of a person in need of financial,
68 medical, food, housing, or related assistance.

69 [~~10~~] (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program"
70 under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly
71 known as the federal Food Stamp Program.

72 [~~11~~] (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or
73 privilege available under SNAP.

74 [~~12~~] (13) "Stabilization" means addressing the basic living, family care, and social or
75 psychological needs of the client so that the client may take advantage of training or
76 employment opportunities provided under this title or through other agencies or institutions.

77 Section 2. Section **35A-2-203** is amended to read:

78 **35A-2-203. Employment centers.**

79 (1) In each county within an economic service area, the executive director shall:

- 80 (a) designate the location of one or more employment centers, as defined in Section
81 35A-1-102, in which the services are provided by the department; or
- 82 (b) coordinate with the department to establish access to the services provided by the
83 department by means other than an employment center.

84 (2) An employment center shall provide a comprehensive program of employment
85 services including job placement, job development, stabilization, assessment, and job training
86 through its employment counselors as part of a system of unified case management.

87 (3) The department may make services that are provided through employment centers
88 under this section accessible through electronic linkage.

89 (4) The department shall develop and maintain a website dedicated to providing

90 information regarding jobs available throughout the state.

91 (5) A government entity or private company that contracts with a government entity
92 shall post each job vacancy on the department's website. For a private company, this
93 requirement shall be in effect for the duration of a contract with a government entity that uses
94 taxpayer funds.

95 Section 3. Section **63G-6a-1202 (Effective 05/01/13)** is amended to read:

96 **63G-6a-1202 (Effective 05/01/13). Required contract clauses -- Computation of**
97 **price adjustments -- Use of rules and regulations.**

98 (1) The rules of the applicable rulemaking authority shall require for state construction
99 contracts, and may permit or require for contracts for supplies and services, the inclusion of
100 clauses providing for adjustments in prices, time of performance, or other appropriate contract
101 provisions, and covering the following subjects:

102 (a) the unilateral right of the procurement officer to order in writing changes in the
103 work within the scope of the contract and changes in the time of performance of the contract
104 that do not alter the scope of the contract work;

105 (b) variations occurring between estimated quantities of work in a contract and actual
106 quantities;

107 (c) suspension of work ordered by the procurement officer; and

108 (d) site conditions differing from those indicated in the construction contract, or
109 ordinarily encountered, except that differing site conditions clauses required by the rules need
110 not be included in a construction contract when:

111 (i) the contract is negotiated;

112 (ii) the contractor provides the site or design; or

113 (iii) the parties have otherwise agreed with respect to the risk of differing site
114 conditions.

115 (2) Adjustments in price pursuant to clauses described in Subsection (1) shall be
116 computed in one or more of the following ways:

117 (a) by agreement on a fixed price adjustment before commencement of the pertinent
118 performance or as soon thereafter as practicable;

119 (b) by unit prices specified in the contract or subsequently agreed upon;

120 (c) by the costs attributable to the events or situations under the clauses with

121 adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

122 (d) in any other manner as the contracting parties may mutually agree; or

123 (e) in the absence of agreement by the parties, by a unilateral determination by the

124 procurement officer of the costs attributable to the events or situations under the clauses with

125 adjustment of profit or fee, all as computed by the procurement officer in accordance with

126 applicable rules and subject to the provisions of Part 17, Procurement Appeals Board, and Part

127 18, Appeals to Court and Court Proceedings.

128 (3) A contractor shall be required to submit cost or pricing data if any adjustment in

129 contract price is subject to the provisions of Section 63G-6a-1206.

130 (4) The rules of the applicable rulemaking authority shall require for construction

131 contracts, and may permit or require for contracts for supplies and services, the inclusion of

132 clauses providing for appropriate remedies and covering at least the following subjects:

133 (a) liquidated damages as appropriate;

134 (b) specified excuses for delay or nonperformance;

135 (c) termination of the contract for default; and

136 (d) termination of the contract in whole or in part for the convenience of the public

137 procurement unit.

138 (5) The rules of the applicable rulemaking authority shall require, for each contract and

139 request for proposals, the inclusion of a clause providing that the contractor and each

140 subcontractor, for the duration of the contract, advertise all job openings through the

141 Department of Workforce Services. This requirement does not preclude the contractor from

142 also advertising job openings in other forums throughout the state.

143 [~~5~~] (6) The contract clauses described in this section shall be established by rule.

144 However, the procurement officer or the head of an authorized purchasing entity may modify

145 the clauses for inclusion in any particular contract. The applicable rulemaking authority may,

146 by rule, require that:

147 (a) variations be supported by a written determination that describes the circumstances

148 justifying the variations; and

149 (b) notice of any material variation shall be included in the invitation for bids or

150 request for proposals.

151 [~~6~~] (7) A contract for construction entered into by a public procurement unit shall

152 contain a clause that addresses the rights of the parties when, after the contract is executed, site
153 conditions are discovered that:

154 (a) the contractor did not know existed, and should not have known existed, at the time
155 that the contract was executed; and

156 (b) materially impacts the costs of construction.

157 Section 4. **Effective date.**

158 If approved by two-thirds of all the members elected to each house, this bill takes effect
159 on May 1, 2013.

Legislative Review Note
as of 12-14-12 10:57 AM

Office of Legislative Research and General Counsel