

HB0471

~~{Omitted text}~~ shows text that was in HB0471 but was omitted in HB0471S01

inserted text shows text that was not in HB0471 but was inserted into HB0471S01

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Transportation Procurement Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin Roberts

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses {~~procurement~~} procurements by the Department of {~~transit vehicles~~} ~~nsportation~~.

Highlighted Provisions:

This bill:

- ▶ defines terms; {and}
- ▶ authorizes the Department of Transportation to {~~enter into interstate compacts and~~} utilizes
es of cooperative purchasing agreements for the procurement of transit vehicles{~~, as defined.~~} ; and
- ▶ **makes technical corrections.**

Money Appropriated in this Bill:

None

Other Special Clauses:

None

AMENDS:

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~~{63G-6a-103, as last amended by Laws of Utah 2024, Chapters 291, 408 and 438, as last amended by Laws of Utah 2024, Chapters 291, 408 and 438}~~

63G-6a-107.6, as last amended by Laws of Utah 2024, Chapters 291, 522, as last amended by Laws of Utah 2024, Chapters 291, 522

63G-6a-109, as last amended by Laws of Utah 2022, Chapter 421, as last amended by Laws of Utah 2022, Chapter 421

ENACTS:

~~{63G-6a-1404, Utah Code Annotated 1953, Utah Code Annotated 1953}~~

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

~~{Section 1. Section 63G-6a-103 is amended to read: }~~

63G-6a-103. Definitions.

As used in this chapter:

- (1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.
- (2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.
- (3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.
- (4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.
- (5) "Bidding process" means the procurement process described in Part 6, Bidding.
- (6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.
- (7) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.
- (8) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.
- (9) "Chief procurement officer" means the individual appointed under Section 63A-2-102.
- (10) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:
 - (a) except:
 - (i) reviewing a solicitation to verify that it is in proper form; and

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- 46 (ii) causing the publication of a notice of a solicitation; and
47 (b) including:
48 (i) preparing any solicitation document;
49 (ii) appointing an evaluation committee;
50 (iii) conducting the evaluation process, except the process relating to scores calculated for costs of
proposals;
52 (iv) selecting and recommending the person to be awarded a contract;
53 (v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's
approval; and
55 (vi) contract administration.
- 56 (11) "Conservation district" means the same as that term is defined in Section 17D-3-102.
- 57 (12) "Construction project":
58 (a) means a project for the construction, renovation, alteration, improvement, or repair of a public
facility on real property, including all services, labor, supplies, and materials for the project; and
61 (b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance
of an existing public facility.
- 63 (13) "Construction manager/general contractor":
64 (a) means a contractor who enters into a contract:
65 (i) for the management of a construction project; and
66 (ii) that allows the contractor to subcontract for additional labor and materials that are not included in
the contractor's cost proposal submitted at the time of the procurement of the contractor's services;
and
69 (b) does not include a contractor whose only subcontract work not included in the contractor's cost
proposal submitted as part of the procurement of the contractor's services is to meet subcontracted
portions of change orders approved within the scope of the project.
- 73 (14) "Construction subcontractor":
74 (a) means a person under contract with a contractor or another subcontractor to provide services or
labor for the design or construction of a construction project;
76 (b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title
58, Chapter 55, Utah Construction Trades Licensing Act; and
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(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

80 (15) "Contract" means an agreement for a procurement.

81 (16) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

84 (a) implementing the contract;

85 (b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

87 (c) executing change orders;

88 (d) processing contract amendments;

89 (e) resolving, to the extent practicable, contract disputes;

90 (f) curing contract errors and deficiencies;

91 (g) terminating a contract;

92 (h) measuring or evaluating completed work and contractor performance;

93 (i) computing payments under the contract; and

94 (j) closing out a contract.

95 (17) "Contractor" means a person who is awarded a contract with a procurement unit.

96 (18) "Cooperative procurement" means procurement conducted by, or on behalf of:

97 (a) more than one procurement unit; or

98 (b) a procurement unit and a cooperative purchasing organization.

99 (19) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

102 (20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

105 (21) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

108 (22) "Days" means calendar days, unless expressly provided otherwise.

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- 109 (23) "Definite quantity contract" means a fixed price contract that provides for a specified amount of
supplies over a specified period, with deliveries scheduled according to a specified schedule.
- 112 (24) "Design professional" means:
- 113 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;
- 115 (b) an individual licensed as a professional engineer or professional land surveyor under Title 58,
Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
- 118 (c) an individual licensed under Title 58, Chapter 53, Landscape Architects Licensing Act, to engage in
the practice of landscape architecture, as defined in Section 58-53-102; or
- 121 (d) an individual certified as a commercial interior designer under Title 58, Chapter 86, State
Certification of Commercial Interior Designers Act.
- 123 (25) "Design professional procurement process" means the procurement process described in Part 15,
Design Professional Services.
- 125 (26) "Design professional services" means:
- 126 (a) professional services within the scope of the practice of architecture as defined in Section
58-3a-102;
- 128 (b) professional engineering as defined in Section 58-22-102;
- 129 (c) master planning and programming services;
- 130 (d) professional services within the scope of the practice of landscape architecture, as defined in Section
58-53-102; or
- 132 (e) services within the scope of the practice of commercial interior design, as defined in Section
58-86-102.
- 134 (27) "Design-build" means the procurement of design professional services and construction by the use
of a single contract.
- 136 (28) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.
- 138 (29) "Educational procurement unit" means:
- 139 (a) a school district;
- 140 (b) a public school, including a local school board or a charter school;
- 141 (c) the Utah Schools for the Deaf and the Blind;
- 142 (d) the Utah Education and Telehealth Network;
- 143 (e) an institution of higher education of the state described in Section 53B-1-102; or
- 144 (f) the State Board of Education.

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- 145 (30) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other
form that:
- 147 (a) is regularly maintained by a manufacturer or contractor;
- 148 (b) is published or otherwise available for inspection by customers; and
- 149 (c) states prices at which sales are currently or were last made to a significant number of any category
of buyers or buyers constituting the general buying public for the supplies or services involved.
- 152 (31)
- (a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other
organization within the state executive branch.
- 154 (b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as
provided in Section 63M-14-210.
- 156 (32) "Facilities division" means the Division of Facilities Construction and Management, created in
Section 63A-5b-301.
- 158 (33) "Fixed price contract" means a contract that provides a price, for each procurement item obtained
under the contract, that is not subject to adjustment except to the extent that:
- 161 (a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is
not based on cost to the contractor; or
- 163 (b) an adjustment is required by law.
- 164 (34) "Fixed price contract with price adjustment" means a fixed price contract that provides for an
upward or downward revision of price, precisely described in the contract, that:
- 166 (a) is based on the consumer price index or another commercially acceptable index, source, or formula;
and
- 168 (b) is not based on a percentage of the cost to the contractor.
- 169 (35) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend
public funds or other assistance, for a public purpose authorized by law, without acquiring a
procurement item in exchange.
- 172 (36) "Human services procurement item" means a procurement item used to provide services or support
to a child, youth, adult, or family.
- 174 (37) "Immaterial error":
- 175 (a) means an irregularity or abnormality that is:
- 176 (i) a matter of form that does not affect substance; or

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- 177 (ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect
on the procurement process and that is not prejudicial to other vendors; and
- 180 (b) includes:
- 181 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional
license, bond, or insurance certificate;
- 183 (ii) a typographical error;
- 184 (iii) an error resulting from an inaccuracy or omission in the solicitation; and
- 185 (iv) any other error that the procurement official reasonably considers to be immaterial.
- 187 (38) "Indefinite quantity contract" means a fixed price contract that:
- 188 (a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit;
and
- 190 (b)
- (i) does not require a minimum purchase amount; or
- 191 (ii) provides a maximum purchase limit.
- 192 (39) "Independent procurement unit" means:
- 193 (a)
- (i) a legislative procurement unit;
- 194 (ii) a judicial branch procurement unit;
- 195 (iii) an educational procurement unit;
- 196 (iv) a local government procurement unit;
- 197 (v) a conservation district;
- 198 (vi) a local building authority;
- 199 (vii) a special district;
- 200 (viii) a public corporation;
- 201 (ix) a special service district; or
- 202 (x) the Utah Communications Authority, established in Section 63H-7a-201;
- 203 (b) the facilities division, but only to the extent of the procurement authority provided under Title 63A,
Chapter 5b, Administration of State Facilities;
- 205 (c) the attorney general, but only to the extent of the procurement authority provided under Title 67,
Chapter 5, Attorney General;
- 207 (d) the Department of Transportation, but only[-] :

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- 208 (i) to the extent of the procurement authority provided under Title 72, Transportation Code; or
210 (ii) as specifically provided in Section 63G-6a-1404 for the procurement of transit vehicles.
- 212 (e) the Department of Health and Human Services, but only for the procurement of a human services
procurement item; or
- 214 (f) any other executive branch department, division, office, or entity that has statutory procurement
authority outside this chapter, but only to the extent of that statutory procurement authority.
- 217 (40)
- (a) "Interlocal entity" means a separate political subdivision created under Title 11, Chapter 13,
Interlocal Cooperation Act.
- 219 (b) "Interlocal entity" does not include a project entity.
- 220 (41) "Invitation for bids":
- 221 (a) means a document used to solicit:
- 222 (i) bids to provide a procurement item to a procurement unit; or
- 223 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
- 224 (b) includes all documents attached to or incorporated by reference in a document described in
Subsection (41)(a).
- 226 (42) "Issuing procurement unit" means a procurement unit that:
- 227 (a) reviews a solicitation to verify that it is in proper form;
- 228 (b) causes the notice of a solicitation to be published; and
- 229 (c) negotiates and approves the terms and conditions of a contract.
- 230 (43) "Judicial procurement unit" means:
- 231 (a) the Utah Supreme Court;
- 232 (b) the Utah Court of Appeals;
- 233 (c) the Judicial Council;
- 234 (d) a state judicial district; or
- 235 (e) an office, committee, subcommittee, or other organization within the state judicial branch.
- 237 (44) "Labor hour contract" is a contract under which:
- 238 (a) the supplies and materials are not provided by, or through, the contractor; and
- 239 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified
number of labor hours or days.
- 241 (45) "Legislative procurement unit" means:

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- 242 (a) the Legislature;
- 243 (b) the Senate;
- 244 (c) the House of Representatives;
- 245 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- 246 (e) a committee, subcommittee, commission, or other organization:
- 247 (i) within the state legislative branch; or
- 248 (ii)
- (A) that is created by statute to advise or make recommendations to the Legislature;
- 250 (B) the membership of which includes legislators; and
- 251 (C) for which the Office of Legislative Research and General Counsel provides staff support.
- 253 (46) "Local building authority" means the same as that term is defined in Section 17D-2-102.
- 254 (47) "Local government procurement unit" means:
- 255 (a) a county, municipality, interlocal entity, or project entity, and each office of the county,
municipality, interlocal entity, or project entity, unless:
- 257 (i) the county or municipality adopts a procurement code by ordinance;
- 258 (ii) the interlocal entity adopts procurement rules or policies as provided in Subsection 11-13-226(2); or
- 260 (iii) the project entity adopts a procurement code through the process described in Section 11-13-316;
- 262 (b)
- (i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency
of that county or municipality; and
- 264 (ii) a project entity that has adopted this entire chapter through the process described in Subsection
11-13-316; or
- 266 (c) a county, municipality, or project entity, and each office of the county, municipality, or project
entity that has adopted a portion of this chapter to the extent that:
- 268 (i) a term in the ordinance is used in the adopted chapter; or
- 269 (ii) a term in the ordinance is used in the language a project entity adopts in its procurement code
through the process described in Section 11-13-316.
- 271 (48) "Multiple award contracts" means the award of a contract for an indefinite quantity of a
procurement item to more than one person.
- 273 (49) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract
that permits renewal of the contract, without competition, beyond the first year of the contract.

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- 276 (50) "Municipality" means a city or town.
- 277 (51) "Nonadopting local government procurement unit" means:
- 278 (a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board,
Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest
or Appeal; and
- 281 (b) each office or agency of a county or municipality described in Subsection (51)(a).
- 282 (52) "Offeror" means a person who submits a proposal in response to a request for proposals.
- 284 (53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the
requirements of this chapter.
- 286 (54) "Procure" means to acquire a procurement item through a procurement.
- 287 (55) "Procurement" means the acquisition of a procurement item through an expenditure of public
funds, or an agreement to expend public funds, including an acquisition through a public-private
partnership.
- 290 (56) "Procurement item" means an item of personal property, a technology, a service, or a construction
project.
- 292 (57) "Procurement official" means:
- 293 (a) for a procurement unit other than an independent procurement unit, the chief procurement officer;
- 295 (b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted
by the Legislative Management Committee;
- 297 (c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the
Judicial Council by rule;
- 299 (d) for a local government procurement unit:
- 300 (i) the legislative body of the local government procurement unit; or
- 301 (ii) an individual or body designated by the local government procurement unit;
- 302 (e) for a special district, the board of trustees of the special district or the board of trustees' designee;
- 304 (f) for a special service district, the governing body of the special service district or the governing
body's designee;
- 306 (g) for a local building authority, the board of directors of the local building authority or the board of
directors' designee;
- 308 (h) for a conservation district, the board of supervisors of the conservation district or the board of
supervisors' designee;

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- 310 (i) for a public corporation, the board of directors of the public corporation or the board of directors'
designee;
- 312 (j) for a school district or any school or entity within a school district, the board of the school district or
the board's designee;
- 314 (k) for a charter school, the individual or body with executive authority over the charter school or the
designee of the individual or body;
- 316 (l) for an institution of higher education described in Section 53B-2-101, the president of the institution
of higher education or the president's designee;
- 318 (m) for the State Board of Education, the State Board of Education or the State Board of Education's
designee;
- 320 (n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of
the Commissioner of Higher Education;
- 322 (o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director
of the Utah Communications Authority or the executive director's designee; or
- 325 (p)
- (i) for the facilities division, and only to the extent of procurement activities of the facilities division
as an independent procurement unit under the procurement authority provided under Title 63A,
Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's
designee;
- 329 (ii) for the attorney general, and only to the extent of procurement activities of the attorney general as
an independent procurement unit under the procurement authority provided under Title 67, Chapter
5, Attorney General, the attorney general or the attorney general's designee;
- 333 (iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of
procurement activities of the Department of Transportation as an independent procurement unit
under the procurement authority provided under Title 72, Transportation Code, the executive
director of the Department of Transportation or the executive director's designee;
- 338 (iv) for the Department of Health and Human Services, and only to the extent of the procurement
activities of the Department of Health and Human Services as an independent procurement unit,
the executive director of the Department of Health and Human Services or the executive director's
designee; or

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(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

349 (58) "Procurement unit" means:

- 350 (a) a legislative procurement unit;
- 351 (b) an executive branch procurement unit;
- 352 (c) a judicial procurement unit;
- 353 (d) an educational procurement unit;
- 354 (e) the Utah Communications Authority, established in Section 63H-7a-201;
- 355 (f) a local government procurement unit;
- 356 (g) a special district;
- 357 (h) a special service district;
- 358 (i) a local building authority;
- 359 (j) a conservation district; or
- 360 (k) a public corporation.

361 (59) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

- 363 (a) accounting;
- 364 (b) administrative law judge service;
- 365 (c) architecture;
- 366 (d) construction design and management;
- 367 (e) engineering;
- 368 (f) financial services;
- 369 (g) information technology;
- 370 (h) the law;
- 371 (i) medicine;
- 372 (j) psychiatry; or
- 373 (k) underwriting.

374 (60) "Project entity" means the same as that term is defined in Section 11-13-103.

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- 375 (61) "Protest officer" means:
- 376 (a) for the division or an independent procurement unit:
- 377 (i) the procurement official;
- 378 (ii) the procurement official's designee who is an employee of the procurement unit; or
- 380 (iii) a person designated by rule made by the rulemaking authority; or
- 381 (b) for a procurement unit other than an independent procurement unit, the chief procurement officer or
the chief procurement officer's designee who is an employee of the division .
- 384 (62) "Public corporation" means the same as that term is defined in Section 63E-1-102.
- 385 (63) "Public entity" means the state or any other government entity within the state that expends public
funds.
- 387 (64) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a
public entity.
- 389 (65) "Public funds" means money, regardless of its source, including from the federal government, that
is owned or held by a procurement unit.
- 391 (66) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part
8, Public Transit District Act.
- 393 (67) "Public-private partnership" means an arrangement or agreement, occurring on or after January
1, 2017, between a procurement unit and one or more contractors to provide for a public need
through the development or operation of a project in which the contractor or contractors share with
the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or
operating the project.
- 398 (68) "Qualified vendor" means a vendor who:
- 399 (a) is responsible; and
- 400 (b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum
mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the
request for statement of qualifications.
- 403 (69) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or
other development that is permanently affixed to land.
- 405 (70) "Request for information" means a nonbinding process through which a procurement unit requests
information relating to a procurement item.

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(71) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

410 (72) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

412 (73) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

416 (74) "Requirements contract" means a contract:

417 (a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

420 (b) that:

421 (i) does not require a minimum purchase amount; or

422 (ii) provides a maximum purchase limit.

423 (75) "Responsible" means being capable, in all respects, of:

424 (a) meeting all the requirements of a solicitation; and

425 (b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

428 (76) "Responsive" means conforming in all material respects to the requirements of a solicitation.

430 (77) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

433 (78) "Rulemaking authority" means:

434 (a) for a legislative procurement unit, the Legislative Management Committee;

435 (b) for a judicial procurement unit, the Judicial Council;

436 (c)

(i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

438 (A) for the facilities division, the facilities division;

439 (B) for the Office of the Attorney General, the attorney general;

440 (C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation;

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- 442 (D) for the Department of Health and Human Services, the executive director of the Department of
Health and Human Services; and
- 444 (E) for any other executive branch department, division, office, or entity that has statutory
procurement authority outside this chapter, the governing authority of the department, division,
office, or entity; and
- 447 (ii) for each other executive branch procurement unit, the board;
- 448 (d) for a local government procurement unit:
- 449 (i) the governing body of the local government unit; or
- 450 (ii) an individual or body designated by the local government procurement unit;
- 451 (e) for a school district or a public school, the board, except to the extent of a school district's own
nonadministrative rules that do not conflict with the provisions of this chapter;
- 454 (f) for a state institution of higher education, the Utah Board of Higher Education;
- 455 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of
Education;
- 457 (h) for a public transit district, the chief executive of the public transit district;
- 458 (i) for a special district other than a public transit district or for a special service district, the board,
except to the extent that the board of trustees of the special district or the governing body of the
special service district makes its own rules:
- 461 (i) with respect to a subject addressed by board rules; or
- 462 (ii) that are in addition to board rules;
- 463 (j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher
Education;
- 465 (k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the
School and Institutional Trust Lands Board of Trustees;
- 467 (l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and
Institutional Trust Fund Board of Trustees;
- 469 (m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah
Communications Authority board, created in Section 63H-7a-203; or
- 471 (n) for any other procurement unit, the board.
- 472 (79) "Service":
- 473 (a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

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- 475 (b) includes a professional service; and
- 476 (c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.
- 478 (80) "Small purchase process" means the procurement process described in Section 63G-6a-506.
- 480 (81) "Sole source contract" means a contract resulting from a sole source procurement.
- 481 (82) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.
- 484 (83) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.
- 486 (84) "Solicitation response" means:
- 487 (a) a bid submitted in response to an invitation for bids;
- 488 (b) a proposal submitted in response to a request for proposals; or
- 489 (c) a statement of qualifications submitted in response to a request for statement of qualifications.
- 491 (85) "Special district" means the same as that term is defined in Section 17B-1-102.
- 492 (86) "Special service district" means the same as that term is defined in Section 17D-1-102.
- 493 (87) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:
- 497 (a) a requirement for inspecting or testing a procurement item; or
- 498 (b) preparing a procurement item for delivery.
- 499 (88) "Standard procurement process" means:
- 500 (a) the bidding process;
- 501 (b) the request for proposals process;
- 502 (c) the approved vendor list process;
- 503 (d) the small purchase process; or
- 504 (e) the design professional procurement process.
- 505 (89) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.
- 507 (90) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.
- 509 (91) "Subcontractor":

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- 510 (a) means a person under contract to perform part of a contractual obligation under the control of the
contractor, whether the person's contract is with the contractor directly or with another person who
is under contract to perform part of a contractual obligation under the control of the contractor; and
- 514 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.
- 516 (92) "Technology" means the same as "information technology," as defined in Section 63A-16-102.
- 518 (93) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.
- 520 (94) "Time and materials contract" means a contract under which the contractor is paid:
- 521 (a) the actual cost of direct labor at specified hourly rates;
- 522 (b) the actual cost of materials and equipment usage; and
- 523 (c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not
based on a percentage of the cost to the contractor.
- 525 (95) "Transitional costs":
- 526 (a) means the costs of changing:
- 527 (i) from an existing provider of a procurement item to another provider of that procurement item; or
- 529 (ii) from an existing type of procurement item to another type;
- 530 (b) includes:
- 531 (i) training costs;
- 532 (ii) conversion costs;
- 533 (iii) compatibility costs;
- 534 (iv) costs associated with system downtime;
- 535 (v) disruption of service costs;
- 536 (vi) staff time necessary to implement the change;
- 537 (vii) installation costs; and
- 538 (viii) ancillary software, hardware, equipment, or construction costs; and
- 539 (c) does not include:
- 540 (i) the costs of preparing for or engaging in a procurement process; or
- 541 (ii) contract negotiation or drafting costs.
- 542 (96) "Vendor":
- 543 (a) means a person who is seeking to enter into a contract with a procurement unit to provide a
procurement item; and
- 545 (b) includes:

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- 546 (i) a bidder;
- 547 (ii) an offeror;
- 548 (iii) an approved vendor;
- 549 (iv) a design professional; and
- 550 (v) a person who submits an unsolicited proposal under Section 63G-6a-712.

22 Section 1. Section ~~63G-6a-107.6~~ is amended to read:

23 **63G-6a-107.6. Exemptions from chapter.**

- 24 (1) Except for this Subsection (1), the provisions of this chapter do not apply to:
 - 25 (a) a public entity's acquisition of a procurement item from another public entity; or
 - 26 (b) a public entity that is not a procurement unit, including the Colorado River Authority of Utah as provided in Section 63M-14-210.
- 28 (2) Unless otherwise provided by statute and except for this Subsection (2), the provisions of this chapter do not apply to the acquisition or disposal of real property or an interest in real property.
- 31 (3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:
 - 33 (a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;
 - 35 (b) a grant;
 - 36 (c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital or the Department of Health and Human Services through a purchasing consortium if:
 - 39 (i) the consortium uses a competitive procurement process; and
 - 40 (ii) the chief administrative officer of the hospital or the executive director of the Department of Health and Human Services, as the case may be, makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;
 - 44 (d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;
 - 47 (e) supplies purchased for resale to the public;
 - 48 (f) activities related to the management of investments by a public entity granted investment authority by law; or
 - 50 (g) activities of the Utah water agent appointed under Section 73-10g-702;

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- (h) transit vehicles procured by the Department of Transportation through a purchasing consortium, cooperative purchasing agreement, or an interagency agreement if:
- (i) the contracting party for the acquisition of the transit vehicle from the vendor is:
- (A) a public entity;
- (B) another state government;
- (C) or a public transit district in another state;
- (ii) the transit vehicle is intended to be used for, or in connection with, a public transit service within the state; and
- (iii) the procurement of the transit vehicle is in the best interest of the state.
- (4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.
- (5) Except for this Subsection (5), the provisions of this chapter do not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 2. Section 63G-6a-109 is amended to read:

63G-6a-109. Issuing procurement unit and conducting procurement unit.

- (1) With respect to a procurement by an executive branch procurement unit, except for a procurement by an executive branch procurement unit that, under Subsection [63G-6a-103(38)(b), (c), (d), or (e)] 63G-6a-103, is [designated] defined as an independent procurement unit:
- (a) the division is the issuing procurement unit; and
- (b) the executive branch procurement unit is the conducting procurement unit and is responsible to ensure that the procurement is conducted in compliance with this chapter.
- (2) With respect to a procurement by any other procurement unit, the procurement unit is both the issuing procurement unit and the conducting procurement unit.
- (3) A conducting procurement unit is responsible for contract administration.

Section 2. Section 2 is enacted to read:

63G-6a-1404. Interstate compacts and cooperative agreements for procurement of transit vehicles.

(1) As used in this section:

- (a) "Public transit district" means the same as that term is defined in Section 17B-2a-802.

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(b) "Transit vehicle" means any vehicle that the Department of Transportation or a public transit district uses to provide public transportation services.

558 (2) The Department of Transportation may, for the purpose of procuring one or more transit vehicles:

560 (a) enter into a compact, an interagency agreement, or a cooperative purchasing agreement directly with one or more state governments, agencies of other states, or other governmental entities; or

563 (b) participate in, sponsor, or administer a cooperative purchasing agreement through an entity that facilitates those agreements for the purchase of transit vehicles, if the department determines that the agreement would be in the best interest of the state.

566 (3) The executive director of the Department of Transportation, pursuant to Subsection 63G-6a-103(78)(c)(i)(C), is granted authority to and may adopt rules to implement this section.

78 Section 3. **Effective date.**

This bill takes effect on May 7, 2025.

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