

## Chapter 1 Public Contracts

### **14-1-18 Definitions -- Application of Procurement Code to payment and performance bonds.**

- (1)
- (a) For purposes of this chapter, "political subdivision" means any county, city, town, school district, local district, special service district, community reinvestment agency, public corporation, institution of higher education of the state, public agency of any political subdivision, and, to the extent provided by law, any other entity which expends public funds for construction.
  - (b) For purposes of applying Section 63G-6a-1103 to a political subdivision, "state" includes "political subdivision."
- (2) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, Section 63G-6a-1103 applies to all contracts for the construction, alteration, or repair of any public building or public work of the state or a political subdivision of the state.

Amended by Chapter 350, 2016 General Session

### **14-1-19 Failure of government entity to obtain payment bond -- Right of action -- Notice.**

- (1) If the state or a political subdivision fails to obtain a payment bond, it shall, upon demand by a person who has furnished labor or supplied materials to the contractor or subcontractor for the work provided for in a contract which is subject to Section 14-1-18, promptly make payment to that person.
- (2) A person described in Subsection (1):
- (a) shall have a direct right of action against the state or the political subdivision in any court having jurisdiction in any county in which the contract was to be performed, upon giving written notice to the state or political subdivision within 90 days from the date on which such person performed the last of the labor or supplied the last of the material for which claim is made;
  - (b) shall state in the notice a designation of the construction project and its location, the amount claimed, and the name of the party for whom the labor was performed or to whom the material was supplied; and
  - (c) shall serve the notice by registered or certified mail, postage prepaid, on the state agency or political subdivision that is a party to the contract.
- (3) An action described in this section may not be commenced later than one year after the day on which the last of the labor was performed or material was supplied by the person bringing the action.
- (4) Unless otherwise specified in a lawful contract between the state or the political subdivision against which the claim is made and the person demanding payment, the interest rate applicable to the payment or claim is the rate described in Subsection 15-1-1(2).

Amended by Chapter 330, 2012 General Session

### **14-1-20 Preliminary notice requirement.**

- (1) Any person who furnishes labor, service, equipment, or material for which a claim may be made under this chapter shall provide preliminary notice to the designated agent as prescribed by Section 38-1b-202, except that this section does not apply:

- (a) to an individual performing labor for wages; or
  - (b) if a notice of commencement is not filed as prescribed in Section 38-1b-201 for the project or improvement for which labor, service, equipment, or material is furnished.
- (2) Any person who fails to provide the preliminary notice required by Subsection (1) may not make a claim under this chapter.
- (3) The preliminary notice required by Subsection (1) shall be provided prior to commencement of any action on the payment bond.
- (4) Subsection (1)(a) does not exempt the following from complying with the requirements of this section:
- (a) a temporary labor service company or organization;
  - (b) a professional employer company or organization; or
  - (c) any other entity that provides labor.

Amended by Chapter 293, 2014 General Session