

DESIGN BUILD OPTIONS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

AN ACT RELATING TO PROCUREMENT; AMENDING DESIGN-BUILD CONTRACT PROVISIONS **§ ;AND PROVIDING AN EFFECTIVE DATE § .**

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

AMENDS:

63-56-36.1, as last amended by Chapter 107, Laws of Utah 1997

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

Section 1. Section **63-56-36.1** is amended to read:

63-56-36.1. Procurement of design-build transportation project contracts.

(1) As used in this section:

~~[(a) "Department" means the Department of Transportation.]~~

~~[(b)]~~ (a) "Design-build ~~[highway]~~ transportation project contract" means the procurement of both the design and construction of a ~~[highway]~~ transportation project in a single contract with a company or combination of companies capable of providing the necessary engineering services and construction.

(b) "Transportation agency" means:

(i) the Department of Transportation;

(ii) a county of the first or second class, as defined in Section 17-16-13;

(iii) a municipality of the first class, as defined in Section 10-2-301;

(iv) a public transit district that has more than 200,000 people residing within its boundaries; and

(v) a public airport authority, as created under Title 17A, Chapter 2, Part 15, Airport Authorities.

(2) ~~[The Department of Transportation]~~ Except as provided in Subsection (3), a

28 transportation agency may~~[-(a)]~~ award a design-build [~~highway~~] transportation project contract
29 for any transportation project that has an estimated cost of at least \$50,000,000 by following the
30 requirements of this section~~[-and]~~.

31 ~~[(b)]~~ (3) The Department of Transportation may:

32 (a) award a design-build transportation project contract for any transportation project by
33 following the requirements of this section; and

34 (b) make rules, by following the procedures and requirements of Title 63, Chapter 46a,
35 Utah Administrative Rulemaking Act, establishing requirements for the procurement of its
36 design-build [~~highway~~] transportation project contracts in addition to those required by this
37 section.

38 ~~[(3)]~~ (4) (a) Before entering a design-build [~~highway~~] transportation project contract, [~~the~~
39 ~~department~~] a transportation agency may issue a request for qualifications to prequalify potential
40 contractors.

41 (b) Public notice of the request for qualifications shall be given in accordance with policy
42 board rules.

43 (c) [~~The department~~] A transportation agency shall require, as part of the qualifications
44 specified in the request for qualifications, that potential contractors at least demonstrate their:

- 45 (i) construction experience;
46 (ii) design experience;
47 (iii) financial, manpower, and equipment resources available for the project; and
48 (iv) experience in other design-build [~~highway~~] transportation projects with attributes
49 similar to the project being procured.

50 (d) The request for qualifications shall identify the number of eligible competing proposers
51 that the [~~department~~] transportation agency will select to submit a proposal, which must be at least
52 two.

53 ~~[(4)]~~ (5) (a) The [~~department~~] transportation agency shall:

- 54 (i) evaluate the responses received from the request for qualifications;
55 (ii) select from their number those qualified to submit proposals; and
56 (iii) invite those respondents to submit proposals based upon the [~~department's~~]
57 transportation agency's request for proposals.

58 (b) If the [~~department~~] transportation agency fails to receive at least two qualified eligible

59 competing proposers, the [~~department~~] transportation agency shall readvertise the project.

60 [~~(5)~~] (6) The [~~department~~] transportation agency shall issue a request for proposals to those
61 qualified respondents that:

62 (a) includes a scope of work statement constituting an information for proposal that may
63 include:

- 64 (i) preliminary design concepts;
- 65 (ii) design criteria, needs, and objectives;
- 66 (iii) warranty and quality control requirements;
- 67 (iv) applicable standards;
- 68 (v) environmental documents;
- 69 (vi) constraints;
- 70 (vii) time expectations or limitations;
- 71 (viii) incentives or disincentives; and
- 72 (ix) other special considerations;

73 (b) requires submitters to provide:

- 74 (i) a sealed cost proposal;
- 75 (ii) a critical path matrix schedule, including cash flow requirements;
- 76 (iii) proposal security; and
- 77 (iv) other items required by the department for the project; and

78 (c) may include award of a stipulated fee to be paid to submitters who submit unsuccessful
79 proposals.

80 [~~(6)~~] (7) The [~~department~~] transportation agency shall:

81 (a) evaluate the submissions received in response to the request for proposals from the
82 prequalified proposers;

83 (b) comply with rules relating to discussion of proposals, best and final offers, and
84 evaluations of the proposals submitted; and

85 (c) after considering price and other identified factors, award the contract to the
86 responsible proposer whose proposal is most advantageous to the state.

86a **§ Section 2. Effective date.**

86b **IF APPROVED BY TWO-THIRDS OF ALL MEMBERS ELECTED TO EACH HOUSE, THIS ACT**
86c **TAKES EFFECT UPON APPROVAL BY THE GOVERNOR, OR THE DAY FOLLOWING THE**
86d **CONSTITUTIONAL TIME LIMIT OF UTAH CONSTITUTION ARTICLE VII, SECTION 8, WITHOUT THE**
86e **GOVERNOR'S SIGNATURE, OR IN THE CASE OF A VETO, THE DATE OF VETO OVERRIDE.** §

Legislative Review Note
as of 1-25-99 3:14 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel