

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 transportation agency may~~[: (a)]~~ award a design-build ~~[highway]~~ transportation project contract for any transportation project that has an estimated cost of at least \$50,000,000 by following the

requirements of this section[; and].

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

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

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

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

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

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

(i) construction experience;

(ii) design experience;

(iii) financial, manpower, and equipment resources available for the project; and

(iv) experience in other design-build [highway] transportation projects with attributes similar to the project being procured.

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

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

(i) evaluate the responses received from the request for qualifications;

(ii) select from their number those qualified to submit proposals; and

(iii) invite those respondents to submit proposals based upon the ~~[department's]~~ transportation agency's request for proposals.

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

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

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

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

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

(b) requires submitters to provide:

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

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

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

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

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

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

Section 2. **Effective date.**

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.