1	DESIGN BUILD OPTIONS
2	1999 GENERAL SESSION
3	STATE OF UTAH
4	Sponsor: John L. Valentine
5	AN ACT RELATING TO PROCUREMENT; AMENDING DESIGN-BUILD CONTRACT
6	PROVISIONS.
7	This act affects sections of Utah Code Annotated 1953 as follows:
8	AMENDS:
9	63-56-36.1, as last amended by Chapter 107, Laws of Utah 1997
10	Be it enacted by the Legislature of the state of Utah:
11	Section 1. Section <b>63-56-36.1</b> is amended to read:
12	63-56-36.1. Procurement of design-build transportation project contracts.
13	(1) As used in this section:
14	[(a) "Department" means the Department of Transportation.]
15	[(b)] (a) "Design-build [highway] transportation project contract" means the procurement
16	of both the design and construction of a [highway] transportation project in a single contract with
17	a company or combination of companies capable of providing the necessary engineering services
18	and construction.
19	(b) "Transportation agency" means:
20	(i) the Department of Transportation;
21	(ii) a county of the first or second class, as defined in Section 17-16-13;
22	(iii) a municipality of the first class, as defined in Section 10-2-301;
23	(iv) a public transit district that has more than 200,000 people residing within its
24	boundaries; and
25	(v) a public airport authority, as created under Title 17A, Chapter 2, Part 15, Airport
26	Authorities.
27	(2) [The Department of Transportation] Except as provided in Subsection (3), a

20	transportation agency may: (a) award a design-bund [mgnway] 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

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39	competing proposers, the [ <del>department</del> ] <u>transportation agency</u> snan 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

## 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