

1 **BIDDING PROCESS FOR SCHOOL DISTRICT**

2 **CONSTRUCTION**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gordon E. Snow**

6 AN ACT RELATING TO PUBLIC SCHOOLS; PROVIDING THAT IF A LOCAL SCHOOL
7 BOARD DETERMINES TO USE A CONSTRUCTION MANAGER/GENERAL
8 CONTRACTOR AS ITS METHOD OF CONSTRUCTION CONTRACTING MANAGEMENT
9 ON PROJECTS WHERE THE TOTAL ESTIMATED ACCUMULATIVE COST EXCEEDS
10 \$80,000, IT SHALL USE ONE OF THE SOURCE SELECTION METHODS PROVIDED FOR
11 IN SECTIONS 63-56-20 THROUGH 63-56-35.8.

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

13 AMENDS:

14 **53A-20-101**, as last amended by Chapter 51, Laws of Utah 1998

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

16 Section 1. Section **53A-20-101** is amended to read:

17 **53A-20-101. Construction and alteration of schools and plants -- Advertising for bids**
18 **-- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards**
19 **-- Interest of local school board members.**

20 (1) (a) Prior to the construction of any school or the alteration of any existing school plant,
21 if the total estimated accumulative building project cost exceeds \$80,000, a local school board
22 shall advertise for bids on the project at least ten days before the bid due date.

23 (b) The board shall have the advertisement published in a newspaper having general
24 circulation throughout the state and in appropriate construction trade publications that offer free
25 listings.

26 (c) A similar advertisement is required in a newspaper published or having general
27 circulation in any city or county that would be affected by the proposed project.

- 28 (d) The advertisement shall:
- 29 (i) require sealed proposals for the building project in accordance with plans and
30 specifications furnished by the local school board;
- 31 (ii) state where and when the proposals will be opened and shall reserve the right of the
32 board to reject any and all proposals; and
- 33 (iii) require a certified check or bid bond of not less than 5% of the bid to accompany the
34 bid.
- 35 (2) (a) The board shall meet at the time and place specified in the advertisement and
36 publicly open and read all received proposals.
- 37 (b) If satisfactory bids are received, the board shall award the contract to the lowest
38 responsible bidder.
- 39 (c) If none of the proposals are satisfactory, all shall be rejected.
- 40 (d) The board shall again advertise in the manner provided in this section.
- 41 (e) If, after advertising a second time no satisfactory bid is received, the board may proceed
42 under its own direction with the required project.
- 43 (3) (a) The check or bond required under Subsection (1)(d) shall be drawn in favor of the
44 local school board.
- 45 (b) If the successful bidder fails or refuses to enter into the contract and furnish the
46 additional bonds required under this section, then the bidder's check or bond is forfeited to the
47 district.
- 48 (4) A local school board shall require payment and performance bonds of the successful
49 bidder as required in Section 63-56-38.
- 50 (5) (a) A local school board may require in the proposed contract that at least 10% of the
51 contract price be withheld until the project is completed and accepted by the board.
- 52 (b) If money is withheld, the board shall place it in an interest bearing account, and the
53 interest accrues for the benefit of the contractor and subcontractors.
- 54 (c) This money shall be paid upon completion of the project and acceptance by the board.
- 55 (6) (a) A local school board may not bid on projects within the district if the total
56 accumulative estimated cost exceeds \$80,000.
- 57 (b) The board may use its resources if no satisfactory bids are received under this section.
- 58 (7) If the local school board determines to use a construction manager/general contractor

59 as its method of construction contracting management on projects where the total estimated
60 accumulative cost exceeds \$80,000, it shall select the construction manager/general contractor
61 using one of the source selection methods provided for in Sections 63-56-20 through 63-56-35.8.

62 ~~(7)~~ (8) A local school board member may not have a direct or indirect financial interest
63 in the construction project contract.

Legislative Review Note
as of 12-28-99 4:28 PM

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

Office of Legislative Research and General Counsel