

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **26-8a-405.1**, as last amended by Chapter 277, Laws of Utah 2004

31 **26-8a-405.2**, as last amended by Chapter 277, Laws of Utah 2004

32 ENACTS:

33 **26-8a-405.3**, Utah Code Annotated 1953

34 **Uncodified Material Affected:**

35 ENACTS UNCODIFIED MATERIAL



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

38 Section 1. Section **26-8a-405.1** is amended to read:

39 **26-8a-405.1. Selection of provider by political subdivision.**

40 (1) For purposes of this section and [Section] Sections 26-8a-405.2 and 26-8a-405.3:

41 (a) "911 ambulance or paramedic services" means either 911 ambulance service, or 911
42 paramedic service, or both and:

43 (i) means a 911 call received by a designated dispatch center that receives 911 or E911
44 calls; and

45 (ii) does not mean a seven digit telephone call received directly by an ambulance
46 provider licensed under this chapter;

47 (b) "political subdivision" means:

48 (i) a city or town located in a county of the first or second class as defined in Section
49 17-50-501;

50 (ii) a county of the first or second class;

51 (iii) the following districts or service areas located in a county of the first or second
52 class:

53 (A) a special service district created under Title 17A, Chapter 2, Part 13, Utah Special
54 Service District Act;

55 (B) a local district created under Title 17B, Chapter 2, Local Districts, for the purpose
56 of providing fire protection, paramedic, and emergency services; and

57 (C) a county service area created under Title 17A, Chapter 2, Part 4, County Service
58 Area Act, for the purpose of providing fire protection, paramedic, and emergency services; or

59 (iv) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii)~~[-]~~; ~~§~~→ ~~[or]~~ ←~~§~~
 60 (v) municipalities and ~~§~~→ ~~[or]~~ ←~~§~~ counties joining together pursuant to Title 11, Chapter
 60a 13,

61 Interlocal Cooperation Act ~~§~~→ ~~[,as a]~~ ; or

61a (iv) a ←~~§~~ special district for fire protection as defined in Section
 62 17A-2-1304.

63 (2) (a) Only an applicant approved under Section 26-8a-405 may respond to a request
 64 for a proposal for 911 ambulance or paramedic services issued in accordance with Section
 65 26-8a-405.2 by a political subdivision.

66 (b) A response to a request for proposal is subject to the maximum rates established by
 67 the department under Section 26-8a-403.

68 (c) A political subdivision may award a contract to an applicant for the provision of
 69 911 ambulance or paramedic services:

70 (i) in accordance with Section 26-8a-405.2; and

71 (ii) subject to Subsection (3).

72 (3) (a) The department shall issue a license to an applicant selected by a political
 73 subdivision under Subsection (2) unless the department finds that issuing a license to that
 74 applicant would jeopardize the health, safety, and welfare of the citizens of the geographic
 75 service area.

76 (b) A license issued under this Subsection (3):

77 (i) is for the exclusive geographic service area approved by the department in
 78 accordance with Subsection 26-8a-405.2~~[(3)]~~(2);

79 (ii) is valid for four years;

80 (iii) is not subject to a request for license from another applicant under the provisions
 81 of Sections 26-8a-406 through 26-8a-409 during the four-year term, unless the applicant's
 82 license is revoked under Section 26-8a-504; and

83 (iv) is subject to supervision by the department under Sections 26-8a-503 and
 84 26-8a-504.

85 (4) ~~[The]~~ Except as provided in Subsection 26-8a-405.3(4)(a), the provisions of
 86 Sections 26-8a-406 through 26-8a-409 do not apply to a license issued under this section.

87 Section 2. Section **26-8a-405.2** is amended to read:

88 **26-8a-405.2. Selection of provider -- Request for competitive sealed proposal --**

89 **Public convenience and necessity.**

90 (1) (a) A political subdivision may contract with an applicant approved under Section
91 26-8a-404 to provide 911 ambulance or paramedic services for the geographic service area that
92 is approved by the department in accordance with Subsection (2), if the political subdivision
93 complies with the provisions of this section and Section 26-8a-405.3.

94 (b) The provisions of this section and [~~Section~~] Sections 26-8a-405.1 and 26-8a-405.3
95 do not require a political subdivision to issue a request for proposal for ambulance or
96 paramedic services. If a political subdivision does not contract with an applicant in accordance
97 with this section and Section 26-8a-405.3, the provisions of Sections 26-8a-406 through
98 26-8a-409 apply to the issuance of a license for ambulance or paramedic services in the
99 geographic service area that is within the boundaries of the political subdivision.

100 (c) (i) For purposes of this Subsection (1)(c):

101 (A) "local district" and "county service area" are defined in Subsection
102 26-8a-405.1(1)(b)(iii);

103 (B) "participating municipality" means a city or town whose area is partly or entirely
104 included within a county service area or local district; and

105 (C) "participating county" means a county whose unincorporated area is partly or
106 entirely included within a county service area or local district.

107 (ii) A participating municipality or participating county may contract with a provider
108 for 911 ambulance or paramedic service as provided in this section and Section 26-8a-405.3.

109 (iii) If the participating municipality or participating county contracts with a provider
110 for 911 ambulance or paramedic services under this section and Section 26-8a-405.3:

111 (A) the county service area or local district is not obligated to provide the ambulance or
112 paramedic services that are included in the contract between the participating municipality or
113 the participating county and the 911 ambulance or paramedic provider;

114 (B) the county service area and local district may impose taxes and obligations within
115 the county service area or local district in the same manner as if the participating municipality
116 or participating county were receiving all services offered by the local district or county service
117 area; and

118 (C) the participating municipality's and participating county's obligations to the local
119 district or county service area are not diminished.

120 (2) (a) The political subdivision shall submit the request for proposal and the exclusive

121 geographic service area to be included in the request for proposal to the department for
122 approval prior to issuing the request for proposal. The department shall approve the request for
123 proposal and the exclusive geographic service area:

124 (i) unless the geographic service area creates an orphaned area; and

125 (ii) in accordance with Subsections (2)(b) and (c).

126 (b) The exclusive geographic service area may:

127 (i) include the entire geographic service area that is within the political subdivision's
128 boundaries;

129 (ii) include islands within or adjacent to other peripheral areas not included in the
130 political subdivision that governs the geographic service area; or

131 (iii) exclude portions of the geographic service area within the political subdivision's
132 boundaries if another political subdivision or licensed provider agrees to include the excluded
133 area within their license.

134 (c) The proposed geographic service area for 911 ambulance or paramedic service must
135 demonstrate that non-911 ambulance or paramedic service will be provided in the geographic
136 service area, either by the current provider, the applicant, or some other method acceptable to
137 the department. The department may consider the effect of the proposed geographic service
138 area on the costs to the non-911 provider and that provider's ability to provide only non-911
139 services in the proposed area.

140 ~~[(3) (a) (i) A political subdivision may select an applicant approved by the department~~
141 ~~under Section 26-8a-404 to provide 911 ambulance or paramedic services by contract let to the~~
142 ~~lowest, responsive, and responsible bidder after publication of notice at least once a week for~~
143 ~~three consecutive weeks in a newspaper of general circulation published in the county, or if~~
144 ~~there is no such newspaper, then after posting such notice for at least 20 days in at least five~~
145 ~~public places in the county.]~~

146 ~~[(ii) The applicants who are approved under Section 26-8a-405 and who are selected~~
147 ~~under Subsection (3)(a)(i) may be the political subdivision issuing the request for proposal, or~~
148 ~~any other public entity or entities, any private person or entity, or any combination thereof.]~~

149 ~~[(b) A political subdivision may reject all of the bids.]~~

150 ~~[(4) In seeking bids and awarding contracts under this section, a political subdivision:]~~

151 ~~[(a) shall follow the provisions of Section 63-56-20;]~~

152 ~~[(b) shall consider the public convenience and necessity factors listed in Subsections~~
 153 ~~26-8a-408(2), (3), and (4);]~~

154 ~~[(c) shall require the applicant responding to the bid to disclose how the applicant will~~
 155 ~~meet performance standards in the request for proposal;]~~

156 ~~[(d) may not require or restrict an applicant to a certain method of meeting the~~
 157 ~~performance standards; and]~~

158 ~~[(e) (i) shall require an applicant to submit the bid based on full cost accounting in~~
 159 ~~accordance with generally accepted accounting principals; and]~~

160 ~~[(ii) if the applicant is a governmental entity, in addition to the requirements of~~
 161 ~~Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and~~
 162 ~~in compliance with the State of Utah Legal Compliance Audit Guide.]~~

163 Section 3. Section ~~26-8a-405.3~~ is enacted to read:

164 **26-8a-405.3. Use of competitive sealed proposals -- Procedure -- Appeal rights.**

165 (1) (a) Competitive sealed proposals for paramedic or 911 ambulance services under
 166 Section 26-8a-405.2 shall be solicited through a request for proposal and the provisions of this
 167 section.

168 (b) The governing body of the political subdivision shall approve the request for
 169 proposal prior to the notice of the request for proposals under Subsection (1)(c).

170 (c) Notice of the request for proposals must be published at least once a week for three
 171 consecutive weeks in a newspaper of general circulation published in the county, or if there is
 172 no such newspaper, then notice must be posted for at least 20 days in at least five public places
 173 in the county.

174 (2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing
 175 offerors during the process of negotiations.

176 (b) (i) Subsequent to the published notice, and prior to selecting an applicant, the
 177 political subdivision must hold a presubmission conference with interested applicants for the
 178 purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

179 (ii) A political subdivision shall allow at least ~~§~~ → [120] 90 ← ~~§~~ days from the
 179a presubmission
 180 conference for the proposers to submit proposals.

181 (c) Subsequent to the presubmission conference, the political subdivision may issue
 182 addenda to the request for proposals. ~~§~~ → **An addenda to a request for proposal must be finalized**
 182a **and posted by the political subdivision at least 45 days prior to the date on which the proposal**
 182b **must be submitted.** ← ~~§~~

183 (d) Offerors to the request for proposals shall be accorded fair and equal treatment with
 184 respect to any opportunity for discussion and revisions of proposals, and revisions may be
 185 permitted after submission and before a contract is awarded for the purpose of obtaining best
 186 and final offers.

187 (e) In conducting discussions, there shall be no disclosures of any information derived
 188 from proposals submitted by competing offerors.

189 (3) (a) (i) A political subdivision may select an applicant approved by the department
 190 under Section 26-8a-404 to provide 911 ambulance or paramedic services by contract to the
 191 most responsible offeror as defined in Subsection 63-56-5(24).

192 (ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose
 193 proposal is determined in writing to be the most advantageous to the political subdivision,
 194 taking into consideration price and the evaluation factors set forth in the request for proposal.

195 (b) The applicants who are approved under Section 26-8a-405 and who are selected
 196 under this section may be the political subdivision issuing the request for competitive sealed
 197 proposals, or any other public entity or entities, any private person or entity, or any
 198 combination thereof.

199 (c) A political subdivision may reject all of the competitive proposals.

200 (4) In seeking competitive sealed proposals and awarding contracts under this section,
 201 a political subdivision:

202 (a) shall ~~§~~→ [consider] apply ←~~§~~ the public convenience and necessity factors listed in
 202a Subsections

203 26-8a-408(2) through ~~§~~→ [(7)] (6) ←~~§~~ ;

204 (b) shall require the applicant responding to the proposal to disclose how the applicant
 205 will meet performance standards in the request for proposal;

206 (c) may not require or restrict an applicant to a certain method of meeting the
 207 performance standards, including:

208 (i) requiring ambulance medical personnel to also be a firefighter; or

209 (ii) mandating that offerors use fire stations or dispatch services of the political
 210 subdivision;

211 (d) (i) shall require an applicant to submit the proposal based on full cost accounting in
 212 accordance with generally accepted accounting principals; and

213 (ii) if the applicant is a governmental entity, in addition to the requirements of

214 Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and
215 in compliance with the State of Utah Legal Compliance Audit Guide; and

216 (e) shall set forth in the request for proposal:

217 (i) the method for determining full cost accounting in accordance with generally
218 accepted accounting principles, and require an applicant to submit the proposal based on such
219 full cost accounting principles;

220 (ii) guidelines established to further competition and provider accountability; and

221 (iii) a list of the factors that will be considered by the political subdivision in the award
222 of the contract, including by percentage, the relative weight of the factors established under this
223 Subsection (4)(e), which may include such things as:

224 (A) response times;

225 (B) staging locations;

226 (C) experience;

227 (D) quality of care; and

228 (E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

229 (5) (a) Notwithstanding the provisions of Subsection 63-56-2(3), the provisions of Title
230 63, Chapter 56, Part H, Legal and Contractual Remedies, apply to the procurement process
231 required by this section, except as provided in Subsection (5)(c).

232 (b) The Procurement Appeals Board created in Section 63-56-51 shall have jurisdiction
233 to review and determine an appeal of an offeror under this section in the same manner as
234 provided in Section 63-56-54.

235 (c) (i) An offeror may appeal the solicitation or award as provided by the political
236 subdivision's procedures. After all political subdivision appeal rights are exhausted, the offeror
237 may appeal under the provisions of Subsections (5)(a) and (b).

238 (ii) The factual determination required by Subsection 63-56-57(1) shall be based on
239 whether the solicitation or award was made in accordance with the procedures set forth in this
240 section and Section 26-8a-405.2.

241 (d) The determination of an issue of fact by the Appeals Board shall be final and
242 conclusive unless arbitrary and capricious or clearly erroneous as provided in Section 63-56-57.

243 **Section 4. Effective date.**

244 If approved by two-thirds of all the members elected to each house, this bill takes effect

245 upon approval by the governor, or the day following the constitutional time limit of Utah
246 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
247 the date of veto override.

248 Section 5. **Application of effective date.**

249 The provisions of this bill apply to:

250 (1) a request for proposal issued by a political subdivision after the effective date of
251 this bill; and

252 (2) a request for proposal issued by a political subdivision prior to the effective date of
253 this bill if the political subdivision requesting the proposals has not contracted with a proposer
254 prior to the effective date of this bill.

Legislative Review Note

as of 2-15-05 8:21 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0216

Amendments to Utah Emergency Medical Services Act

17-Feb-05

3:09 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst