

1 **AMENDMENTS TO UTAH EMERGENCY**

2 **MEDICAL SERVICES ACT**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Curtis S. Bramble**

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Utah Emergency Medical Services System Act to clarify the  
10 procurement procedures that must be followed by a political subdivision issuing a  
11 request for proposal for emergency 911 ambulance services.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends definitions;
- 15 ▶ clarifies that the procurement process must be based on competitive sealed  
16 proposals;
- 17 ▶ requires a presubmission conference;
- 18 ▶ requires fair treatment of all proposers;
- 19 ▶ prohibits certain requirements in the request for proposals;
- 20 ▶ requires certain information in the response to requests for proposals;
- 21 ▶ clarifies the appeal rights for the selection of a proposer; and
- 22 ▶ gives the State Appeals Board jurisdiction to review an appeal of the political  
23 subdivision's selection.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides an immediate effective date.



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 13,  
 61 Interlocal Cooperation Act, as 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 days from the 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.

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 the public convenience and necessity factors listed in Subsections  
203 26-8a-408(2) through (7);

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.

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**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**

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**Fiscal Note**  
**Bill Number SB0216**

Amendments to Utah Emergency Medical Services Act

17-Feb-05

3:09 PM

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**