

30 **63-56-502**, as renumbered and amended by Chapter 25, Laws of Utah 2005



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **63-56-502** is amended to read:

34 **63-56-502. Procurement of design-build transportation project contracts.**

35 (1) As used in this section:

36 (a) "Design-build transportation project contract" means the procurement of both the
37 design and construction of a transportation project in a single contract with a company or
38 combination of companies capable of providing the necessary engineering services and
39 construction.

40 (b) "Transportation agency" means:

41 (i) the Department of Transportation;

42 (ii) a county of the first or second class, as defined in Section 17-50-501;

43 (iii) a municipality of the first class, as defined in Section 10-2-301;

44 (iv) a public transit district that has more than 200,000 people residing within its
45 boundaries; and

46 (v) a public airport authority.

47 (2) Except as provided in Subsection (3), a transportation agency may award a
48 design-build transportation project contract for any transportation project that has an estimated
49 cost of at least \$50,000,000 by following the requirements of this section.

50 (3) (a) The Department of Transportation:

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

53 (ii) shall make rules, by following the procedures and requirements of Title 63, Chapter
54 46a, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its
55 design-build transportation project contracts in addition to those required by this section.

56 (b) A public transit district that has more than 200,000 people residing within its
57 boundaries:

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

60 (ii) shall pass ordinances or a resolution establishing requirements for the procurement
61 of its design-build transportation project contracts in addition to those required by this section.

62 (c) A design-build transportation project contract authorized under this Subsection (3)
63 is not subject to the estimated cost threshold under Subsection (2).

64 (4) (a) Before entering a design-build transportation project contract, a transportation
65 agency may issue a request for qualifications to prequalify potential contractors.

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

68 (c) A transportation agency shall require, as part of the qualifications specified in the
69 request for qualifications, that potential contractors at least demonstrate their:

70 (i) construction experience;

71 (ii) design experience;

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

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

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

78 (5) (a) The transportation agency shall:

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

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

81 (iii) invite those respondents to submit proposals based upon the transportation
82 agency's request for proposals.

83 (b) [H] (i) Except as provided in Subsection (5)(b)(ii), if the transportation agency fails
84 to receive at least two qualified eligible competing proposers, the transportation agency shall
85 readvertise the project.

86 (ii) Until July 1, 2010, a transportation agency may award a contract for a
87 transportation project that has an estimated cost of \$5,000,000 or less to a qualified eligible
88 proposer if:

89 (A) only a single proposal is received; and

90 (B) the transportation agency determines that:

91 (I) the proposal is advantageous to the state; and

92 (II) the proposal price is reasonable.

93 (iii) The Transportation Interim Committee and Government Operations Interim
94 Committee of the Legislature shall review Subsection (5)(b)(ii) prior to November 30, 2009.

95 (6) The transportation agency shall issue a request for proposals to those qualified
96 respondents that:

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

99 (i) preliminary design concepts;

100 (ii) design criteria, needs, and objectives;

101 (iii) warranty and quality control requirements;

102 (iv) applicable standards;

103 (v) environmental documents;

104 (vi) constraints;

105 (vii) time expectations or limitations;

106 (viii) incentives or disincentives; and

107 (ix) other special considerations;

108 (b) requires submitters to provide:

109 (i) a sealed cost proposal;

110 (ii) a critical path matrix schedule, including cash flow requirements;

111 (iii) proposal security; and

112 (iv) other items required by the department for the project; and

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

114 unsuccessful proposals.

115 (7) The transportation agency shall:

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

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

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