

1 **EXTENSION OF SUNSET FOR**
2 **DESIGN-BUILD CONTRACT AWARD**
3 **AUTHORIZATION**

4 2010 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Julie Fisher**

7 Senate Sponsor: Kevin T. Van Tassell

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends provisions relating to the procurement of design-build transportation
12 project contracts.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ extends until July 1, 2015, the sunset of the provision authorizing a transportation
16 agency to award a design-build contract for a transportation project that has an
17 estimated cost of \$5,000,000 or less to a qualified eligible proposer if:

- 18 • only a single proposal is received; and
- 19 • the transportation agency determines that the proposal is advantageous to the
20 state and the proposal price is reasonable; and

21 ▶ makes technical changes.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63G-6-502**, as renumbered and amended by Laws of Utah 2008, Chapter 382

29 **63I-1-263**, as last amended by Laws of Utah 2009, Chapters 334 and 356

30

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

32 Section 1. Section **63G-6-502** is amended to read:

33 **63G-6-502. Procurement of design-build transportation project contracts.**

34 (1) As used in this section:

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

39 (b) "Transportation agency" means:

40 (i) the Department of Transportation;

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

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

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

45 (v) a public airport authority.

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

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

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

52 (ii) shall make rules, by following the procedures and requirements of Title 63G,
53 Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the
54 procurement of its design-build transportation project contracts in addition to those required
55 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
77 least 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) (i) Except as provided in Subsection (5)(b)(ii), if the transportation agency fails to
84 receive at least two qualified eligible competing proposers, the transportation agency shall
85 readvertise the project.

86 (ii) ~~[Until July 1, 2010, a]~~ 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.

122 Section 2. Section **63I-1-263** is amended to read:

123 **63I-1-263. Repeal dates, Titles 63 to 63M.**

124 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to
125 any public school district which chooses to participate, is repealed July 1, 2016.

126 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1,
127 2016.

128 (3) Section 63C-8-106, Rural residency training program, is repealed July 1, 2015.

129 (4) Subsection 63G-6-502(5)(b)(ii) authorizing certain transportation agencies to
130 award a contract for a design-build transportation project in certain circumstances, is repealed
131 July 1, 2015.

132 [~~4~~] (5) The Resource Development Coordinating Committee, created in Section
133 63J-4-501, is repealed July 1, 2015.

134 [~~5~~] (6) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

135 [~~6~~] (7) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act,
136 is repealed July 1, 2010.

137 (b) Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in
138 recycling market development zones, are repealed for taxable years beginning on or after
139 January 1, 2011.

140 (c) Notwithstanding Subsection [~~6~~] (7)(b), a person may not claim a tax credit under
141 Section 59-7-610 or 59-10-1007:

142 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
143 59-10-1007, if the machinery or equipment is purchased on or after July 1, 2010; or

144 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
145 the expenditure is made on or after July 1, 2010.

146 (d) Notwithstanding Subsections [~~(6)~~] (7)(b) and (c), a person may carry forward a tax
147 credit in accordance with Section 59-7-610 or 59-10-1007 if:

148 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

149 (ii) (A) for the purchase price of machinery or equipment described in Section
150 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before June 30,
151 2010; or

152 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b),
153 the expenditure is made on or before June 30, 2010.

154 [~~(7)~~] (8) Title 63M, Chapter 7, Part 4, Sentencing Commission, is repealed January 1,
155 2012.

156 [~~(8)~~] (9) The Crime Victim Reparations Board, created in Section 63M-7-504, is
157 repealed July 1, 2017.

158 [~~(9)~~] (10) Title 63M, Chapter 8, Utah Commission for Women and Families Act, is
159 repealed July 1, 2011.

160 [~~(10)~~] (11) Title 63M, Chapter 9, Families, Agencies, and Communities Together for
161 Children and Youth At Risk Act, is repealed July 1, 2016.

162 [~~(11)~~] (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
163 2012.