

367 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

368 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
 369 decision on a protest under Title 63G, Chapter 6a, Part 16, Controversies and Protests; or

370 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
 371 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
 372 Procurement Appeals Board;

373 (n) the purpose of considering information that is designated as a trade secret, as
 374 defined in Section 13-24-2, if the public body's consideration of the information is necessary in
 375 order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

376 (o) the purpose of discussing information ~~§~~→ [that, at the time of the meeting, the public
 377 body determines is necessary to be kept from public disclosure in order for the public body to
 378 fulfill its duties under Title 63G, Chapter 6a, Utah Procurement Code, including the duty to
 379 conduct a fair procurement process] provided to the public body during the procurement process
 379a under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

379b (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
 379c disclosed to a member of the public or to a participant in the procurement process; and

379d (ii) the public body needs to review or discuss the information in order to properly
 379e fulfill its role and responsibilities in the procurement process ~~←~~§ ; or

380 ~~[(m)]~~ (p) a purpose for which a meeting is required to be closed under Subsection (2).

381 (2) The following meetings shall be closed:

382 (a) a meeting of the Health and Human Services Interim Committee to review a fatality
 383 review report described in Subsection 62A-16-301(1)(a), and the responses to the report
 384 described in Subsections 62A-16-301(2) and (4);

385 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

386 (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the
 387 responses to the report described in Subsections 62A-16-301(2) and (4); or

388 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);
 389 and

390 (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose
 391 of advising the Natural Resource Conservation Service of the United States Department of
 392 Agriculture on a farm improvement project if the discussed information is protected
 393 information under federal law.

394 (3) In a closed meeting, a public body may not:

395 (a) interview a person applying to fill an elected position;

396 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,

397 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;

- 2020 (ii) an individual procurement threshold; and
- 2021 (iii) a single procurement aggregate threshold;
- 2022 (b) establishing procurement requirements relating to the thresholds described in
- 2023 Subsection (2)(a); and
- 2024 (c) the use of electronic, telephone, or written quotes.
- 2025 (3) Expenditures made under this section by a procurement unit may not exceed a
- 2026 threshold established by the applicable rulemaking authority, unless the chief procurement
- 2027 officer or the head of a procurement unit with independent procurement authority gives written
- 2028 authorization to exceed the threshold that includes the reasons for exceeding the threshold.
- 2029 (4) Except as provided in Subsection (5), an executive branch procurement unit may
- 2030 not obtain a procurement item through a small purchase standard procurement process if the
- 2031 procurement item may be obtained through a state cooperative contract or a contract awarded
- 2032 by the chief procurement officer under Subsection 63G-6a-2105(1).
- 2033 (5) Subsection (4) does not apply if:
- 2034 (a) the procurement item is obtained for an unanticipated, urgent or unanticipated,
- 2035 emergency condition, including:
- 2036 (i) an item needed to avoid stopping a public construction project;
- 2037 (ii) an immediate repair to a facility or equipment; or
- 2038 (iii) another emergency condition; ~~H~~→ [or] ←~~H~~
- 2039 (b) the chief procurement officer or the head of a procurement unit that is an executive
- 2040 branch procurement unit with independent procurement authority:
- 2041 (i) determines in writing that it is in the best interest of the procurement unit to obtain
- 2042 an individual procurement item outside of the state contract, comparing:
- 2043 (A) the contract terms and conditions applicable to the procurement item under the
- 2044 state contract with the contract terms and conditions applicable to the procurement item if the
- 2045 procurement item is obtained outside of the state contract;
- 2046 (B) the maintenance and service applicable to the procurement item under the state
- 2047 contract with the maintenance and service applicable to the procurement item if the
- 2048 procurement item is obtained outside of the state contract;
- 2049 (C) the warranties applicable to the procurement item under the state contract with the
- 2050 warranties applicable to the procurement item if the procurement item is obtained outside of

2051 the state contract;

2052 (D) the quality of the procurement item under the state contract with the quality of the
2053 procurement item if the procurement item is obtained outside of the state contract; and

2054 (E) the cost of the procurement item under the state contract with the cost of the
2055 procurement item if the procurement item is obtained outside of the state contract;

2056 (ii) for a procurement item that, if defective in its manufacture, installation, or
2057 performance, may result in serious physical injury, death, or substantial property damage,
2058 determines in writing that the terms and conditions, relating to liability for injury, death, or
2059 property damage, available from the source other than the contractor who holds the state
2060 contract, are similar to, or better than, the terms and conditions available under the state
2061 contract; and

2062 (iii) grants an exception, in writing, to the requirement described in

2062a Subsection (4) ~~H~~→ [-] ; or

2062b **(c)(i) the cost of the procurement item does not exceed \$100; and**

2062c **(ii) the closest physical location of the contractor providing the procurement item under**
2062d **a state cooperative contract or contract awarded by the chief procurement officer is more than**
2062e **60 miles from the procurement unit's location where the procurement item is needed.** ←~~H~~

2063 (6) Except as otherwise expressly provided in this section, a procurement unit:

2064 (a) may not use the small purchase standard procurement process described in this
2065 section for ongoing, continuous, and regularly scheduled procurements that exceed the annual
2066 cumulative threshold; and

2067 (b) shall make its ongoing, continuous, and regularly scheduled procurements that
2068 exceed the annual cumulative threshold through a contract awarded through another standard
2069 procurement process described in this chapter or an applicable exception to another standard
2070 procurement process, described in Part 8, Exceptions to Procurement Requirements.

2071 (7) This section does not prohibit regularly scheduled payments for a procurement item
2072 obtained under another provision of this chapter.

2073 (8) (a) It is unlawful for a person to intentionally or knowingly divide a procurement
2074 into one or more smaller procurements with the intent to make a procurement:

2075 ~~[(a)]~~ (i) qualify as a small purchase, if, before dividing the procurement, it would not
2076 have qualified as a small purchase; or

2077 ~~[(b)]~~ (ii) meet a threshold established by rule made by the applicable rulemaking
2078 authority, if, before dividing the procurement, it would not have met the threshold.

2079 (b) A person who engages in the conduct made unlawful under Subsection (8)(a) is
2080 guilty of:

2081 (i) a second degree felony, if the value of the procurement before being divided is

- 3756 (A) directly under contract with a procurement unit; or
3757 (B) employed by a person under contract with a procurement unit;
3758 (ii) has responsibility in:
3759 (A) developing a solicitation or grant, or ~~H~~→ **[performing some other function in]**
3759a **conducting** ~~H~~ the
3760 procurement process; or
3761 (B) supervising or overseeing the administration or management of a contract or grant;
3762 and
3763 (b) does not include an employee of the procurement unit.
3764 (2) "Contribution":
3765 (a) means a voluntary gift or donation of money, service, or anything else of value, to a
3766 public entity for the public entity's use and not for the primary use of an individual employed
3767 by the public entity; and
3768 (b) includes:
3769 (i) a philanthropic donation;
3770 (ii) admission to a seminar, vendor fair, charitable event, fundraising event, or similar
3771 event that relates to the function of the public entity;
3772 (iii) the purchase of a booth or other display space at an event sponsored by the public
3773 entity or a group of which the public entity is a member; and
3774 (iv) the sponsorship of an event that is organized by the public entity.
3775 (3) "Family member" means a father, mother, husband, wife, son, daughter, sister,
3776 brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
3777 sister-in-law, son-in-law, or daughter-in-law.
3778 (4) "Governing body" means an administrative, advisory, executive, or legislative body
3779 of a public entity.
3780 (5) "Gratuity":
3781 (a) means anything of value given:
3782 (i) without anything provided in exchange; or
3783 (ii) in excess of the market value of that which is provided in exchange;
3784 (b) includes:
3785 (i) a gift or favor;
3786 (ii) money;