

1                   **LOCAL GOVERNMENT CONSTRUCTION PROJECT BID**

2                                   **NOTICE**

3   2023 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Doug Owens**

6                                   Senate Sponsor: Todd D. Weiler

---

---

8 **LONG TITLE**

9 **General Description:**

10           This bill modifies a provision relating to notice requirements for bids for a local  
11 government construction project.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ eliminates a requirement that a local government entity post notice of a bid on a
- 15 building improvement or public works project in five public places;
- 16           ▶ requires notice of the bid to be posted on the state procurement notice website; and
- 17           ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19           None

20 **Other Special Clauses:**

21           This bill provides a coordination clause.

22 **Utah Code Sections Affected:**

23 AMENDS:

24           **11-39-103**, as last amended by Laws of Utah 2021, Chapter 355

25 **Utah Code Sections Affected by Coordination Clause:**

26           **11-39-103**, as last amended by Laws of Utah 2021, Chapter 355

---

---

27

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

29 Section 1. Section **11-39-103** is amended to read:

30 **11-39-103. Requirements for undertaking a building improvement or public**  
31 **works project -- Request for bids -- Authority to reject bids.**

32 (1) If the estimated cost of the building improvement or public works project exceeds  
33 the bid limit, the local entity shall, if it determines to proceed with the building improvement or  
34 public works project:

35 (a) request bids for completion of the building improvement or public works project by  
36 posting notice, at least five days before opening the bids, on:

37 ~~[(i) posting notice at least five days before opening the bids in at least five public~~  
38 ~~places in the local entity and leaving the notice posted for at least three days; and]~~

39 ~~[(ii) posting notice on]~~ (i) the Utah Public Notice Website created in Section  
40 ~~63A-16-601~~[, at least five days before opening the bids]; and

41 (ii) a state website that is:

42 (A) owned or managed by or provided under contract with the division; and

43 (B) established for the purpose of posting public procurement notices; and

44 (b) except as provided in Subsection (3), enter into a contract for the completion of the  
45 building improvement or public works project with:

46 (i) the lowest responsive responsible bidder; or

47 (ii) for a design-build project formulated by a local entity, a responsible bidder that:

48 (A) offers design-build services; and

49 (B) satisfies the local entity's criteria relating to financial strength, past performance,  
50 integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder  
51 to perform fully and in good faith the contract requirements for a design-build project.

52 (2) (a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject  
53 any or all bids submitted.

54 (b) (i) The cost of a building improvement or public works project may not be divided  
55 to avoid:

- 56 (A) exceeding the bid limit; and
- 57 (B) subjecting the local entity to the requirements of this section.
- 58 (ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a
- 59 building improvement or public works project that would, without dividing, exceed the bid
- 60 limit if the local entity complies with the requirements of this section with respect to each part
- 61 of the building improvement or public works project that results from dividing the cost.
- 62 (3) (a) The local entity may reject any or all bids submitted.
- 63 (b) If the local entity rejects all bids submitted but still intends to undertake the
- 64 building improvement or public works project, the local entity shall again request bids by
- 65 following the procedure provided in Subsection (1)(a).
- 66 (c) If, after twice requesting bids by following the procedure provided in Subsection
- 67 (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing
- 68 body may undertake the building improvement or public works project as it considers
- 69 appropriate.

70 Section 2. **Coordinating H.B. 280 with S.B. 43 -- Substantive and technical**  
 71 **amendments.**

72 If this H.B. 280 and S.B. 43, Public Notice Requirements, both pass and become law, it  
 73 is the intent of the Legislature that the Office of Legislative Research and General Counsel  
 74 shall prepare the Utah Code database for publication, by amending Subsection 11-39-103(1)(a)  
 75 to read:

76 "(a) request bids for completion of the building improvement or public works project  
 77 by:

78 (i) ~~[posting]~~ providing notice for the local entity, as a class A notice under Section  
 79 63G-28-102, except the notice described in Subsection 63G-28-102(1)(c), for at least five days  
 80 before opening the bids [in at least five public places in the local entity and leaving the notice  
 81 posted for at least three days]; and

82 ~~[(ii) posting notice on the Utah Public Notice Website created in Section 63A-16-601;~~

83 ~~at least five days before opening the bids; and]~~

84 (ii) at least five days before opening the bids, posting notice on a state website that is:

85 (A) owned or managed by or provided under contract with the division; and

86 (B) established for the purpose of posting public procurement notices; and".