

**Representative Doug Owens** proposes the following substitute bill:

**LOCAL GOVERNMENT CONSTRUCTION PROJECT BID**

**NOTICE**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Doug Owens**

Senate Sponsor: Todd D. Weiler

**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

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



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

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

28 **11-39-103. Requirements for undertaking a building improvement or public**  
29 **works project -- Request for bids -- Authority to reject bids.**

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

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

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

37 ~~[(ii) posting notice on]~~ (i) the Utah Public Notice Website created in Section

38 [63A-16-601](#) ~~[, at least five days before opening the bids]; and~~

39 (ii) a state website that is:

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

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

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

44 (i) the lowest responsive responsible bidder; or

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

46 (A) offers design-build services; and

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

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

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

54 (A) exceeding the bid limit; and

55 (B) subjecting the local entity to the requirements of this section.

56 (ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a

57 building improvement or public works project that would, without dividing, exceed the bid  
58 limit if the local entity complies with the requirements of this section with respect to each part  
59 of the building improvement or public works project that results from dividing the cost.

60 (3) (a) The local entity may reject any or all bids submitted.

61 (b) If the local entity rejects all bids submitted but still intends to undertake the  
62 building improvement or public works project, the local entity shall again request bids by  
63 following the procedure provided in Subsection (1)(a).

64 (c) If, after twice requesting bids by following the procedure provided in Subsection  
65 (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing  
66 body may undertake the building improvement or public works project as it considers  
67 appropriate.

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

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

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

76 (i) ~~[posting]~~ providing notice for the local entity, as a class A notice under Section  
77 [63G-28-102](#), except the notice described in Subsection [63G-28-102\(1\)\(c\)](#), for at least five days  
78 before opening the bids [in at least five public places in the local entity and leaving the notice  
79 posted for at least three days]; and

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

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

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

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