

274 (b) the facilities division, but only to the extent of the procurement authority provided
275 under Title 63A, Chapter 5b, Administration of State Facilities;

276 (c) the attorney general, but only to the extent of the procurement authority provided
277 under Title 67, Chapter 5, Attorney General;

278 (d) the Department of Transportation, but only to the extent of the procurement
279 authority provided under Title 72, Transportation Code; [~~or~~]

280 (e) the Department of Health and Human Services, but only for the procurement of a
281 human services procurement item; or

282 [~~(e)~~] (f) any other executive branch department, division, office, or entity that has
283 statutory procurement authority outside this chapter, but only to the extent of that statutory
284 procurement authority.

285 (40) (a) "Interlocal entity" means a separate political subdivision created under Title
286 11, Chapter 13, Interlocal Cooperation Act.

287 (b) "Interlocal entity" does not include a project entity.

288 [~~(39)~~] (41) "Invitation for bids":

289 (a) means a document used to solicit:

290 (i) bids to provide a procurement item to a procurement unit; or

291 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and

292 (b) includes all documents attached to or incorporated by reference in a document
293 described in Subsection [~~(39)(a)~~] ~~§~~→ [~~(41(a))~~] (41)(a) ←~~§~~ .

294 [~~(40)~~] (42) "Issuing procurement unit" means a procurement unit that:

295 (a) reviews a solicitation to verify that it is in proper form;

296 (b) causes the notice of a solicitation to be published; and

297 (c) negotiates and approves the terms and conditions of a contract.

298 [~~(41)~~] (43) "Judicial procurement unit" means:

299 (a) the Utah Supreme Court;

300 (b) the Utah Court of Appeals;

301 (c) the Judicial Council;

302 (d) a state judicial district; or

303 (e) an office, committee, subcommittee, or other organization within the state judicial
304 branch.

398 (ii) for the attorney general, and only to the extent of procurement activities of the
 399 attorney general as an independent procurement unit under the procurement authority provided
 400 under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's
 401 designee;

402 (iii) for the Department of Transportation created in Section 72-1-201, and only to the
 403 extent of procurement activities of the Department of Transportation as an independent
 404 procurement unit under the procurement authority provided under Title 72, Transportation
 405 Code, the executive director of the Department of Transportation or the executive director's
 406 designee; [or]

407 (iv) for the Department of Health and Human Services, and only to the extent of the
 408 procurement activities of the Department of Health and Human Services as an independent
 409 procurement unit, the executive director of the Department of Health and Human Services or
 410 the executive director's designee; ~~§~~→ or ←~~§~~

411 [(iv)] (v) for any other executive branch department, division, office, or entity that has
 412 statutory procurement authority outside this chapter, and only to the extent of the procurement
 413 activities of the department, division, office, or entity as an independent procurement unit
 414 under the procurement authority provided outside this chapter for the department, division,
 415 office, or entity, the chief executive officer of the department, division, office, or entity or the
 416 chief executive officer's designee.

417 [(56)] (58) "Procurement unit"[:]

418 [(a)] means:

419 [(i)] (a) a legislative procurement unit;

420 [(ii)] (b) an executive branch procurement unit;

421 [(iii)] (c) a judicial procurement unit;

422 [(iv)] (d) an educational procurement unit;

423 [(v)] (e) the Utah Communications Authority, established in Section 63H-7a-201;

424 [(vi)] (f) a local government procurement unit;

425 [(vii)] (g) a special district;

426 [(viii)] (h) a special service district;

427 [(ix)] (i) a local building authority;

428 [(x)] (j) a conservation district; [and] or

708 (c) The deadline for appealing a protest decision may not be modified.

709 (3) A person may not base an appeal of a protest under this section on:

710 (a) a ground not specified in the person's protest under Section 63G-6a-1602; or

711 (b) new or additional evidence not considered by the protest officer.

712 (4) (a) A person may not appeal from a protest described in Section 63G-6a-1602,

713 unless:

714 (i) a decision on the protest has been issued; or

715 (ii) a decision is not issued and the 30-day period described in Subsection

716 63G-6a-1603(9), or a longer period agreed to by the parties, has passed.

717 (b) A procurement unit may not appeal a protest decision or other determination made
718 by the procurement unit's protest officer.

719 (5) (a) Within seven days after the chair of the board receives a written notice of an
720 appeal under this section, the chair shall submit a written request to the protest officer for the
721 protest appeal record.

722 (b) Within seven days after the chair receives the protest appeal record from the protest
723 officer, the appointing officer shall, in consultation with the attorney general's office:

724 (i) review the appeal to determine whether the appeal complies with the requirements
725 of Subsections (2), (3), and (4) and Section 63G-6a-1703; and

726 (ii) (A) dismiss any claim asserted in the appeal, or dismiss the appeal, without holding
727 a hearing if the appointing officer determines that the claim or appeal, respectively, fails to
728 comply with any of the requirements listed in Subsection (5)(b)(i); or

729 (B) appoint a procurement appeals panel to conduct an administrative review of any
730 claim in the appeal that has not been dismissed under Subsection (5)(b)(ii)(A), if the appointing
731 officer determines that one or more claims asserted in the appeal comply with the requirements
732 listed in Subsection (5)(b)(i).

733 (c) A procurement appeals panel appointed under Subsection (5) ~~§~~→ [(a)] (b)(ii) ←~~§~~ shall
733a consist of an

734 odd number of at least three individuals, each of whom is:

735 (i) a member of the board; or

736 (ii) a designee of a member appointed under Subsection (5)(c)(i), if the designee is
737 approved by the chair of the board.

738 (d) The appointing officer shall appoint one of the members of the procurement

770 chapter; and

771 (b) shall uphold the protest decision unless the protest decision is arbitrary and
772 capricious or clearly erroneous.

773 (9) The procurement appeals panel shall, within seven days after the day on which the
774 procurement appeals panel concludes the administrative review:

775 (a) issue a written decision on the appeal; and

776 (b) mail, email, or hand-deliver the written decision on the appeal to the parties to the
777 appeal and to the protest officer.

778 (10) (a) The deliberations of a procurement appeals panel may be held in private.

779 (b) If the procurement appeals panel is a public body, as defined in Section 52-4-103,
780 the procurement appeals panel shall comply with Section 52-4-205 in closing a meeting for its
781 deliberations.

782 (11) A procurement appeals panel may continue an administrative review under this
783 section beyond the 30-day period described in Subsection (6)(a)(i) if the procurement appeals
784 panel determines that the continuance is in the interests of justice.

785 (12) If a procurement appeals panel determines that the decision of the protest officer is
786 arbitrary and capricious or clearly erroneous, the procurement appeals panel:

787 (a) shall remand the matter to the protest officer, to cure the problem or render a new
788 decision;

789 (b) may recommend action that the protest officer should take; and

790 (c) may not order that:

791 (i) a contract be awarded to a certain person;

792 (ii) a contract or solicitation be cancelled; or

793 (iii) any other action be taken other than the action described in Subsection (12)(a).

794 (13) The board shall make rules relating to the conduct of an appeals proceeding,
795 including rules that provide for:

796 (a) expedited proceedings; and

797 (b) electronic participation in the proceedings by panel members and participants.

798 (14) The ~~§~~→ Utah ←~~§~~ Rules of Evidence do not apply to a hearing held by a procurement
798a appeals
799 panel.

800 (15) Part 20, Records, applies to the records involved in the process described in this

832 (h) residential treatment services for an individual after all providers under contract
833 from a competitive procurement are exhausted.

834 (2) The department shall:

835 (a) maintain a written record of the name of all persons who provide services under this
836 section; and

837 (b) annually publish on the department's website the total amount paid to each person
838 under this section during the immediately preceding five-year period.

839 Section 9. Section **63G-6a-2504** is enacted to read:

840 **63G-6a-2504. Process for an invitation to provide a human services procurement**
841 **item -- Open-ended invitations.**

842 (1) As used in this section:

843 (a) "Invitation" means a solicitation or other request seeking qualified providers to
844 enter a contract to provide a human services procurement item.

845 (b) "Open-ended invitation" means an invitation that does not provide for a set closing
846 date.

847 (c) "Qualified provider" means a provider of a human services procurement item that
848 meets the qualifications described in the invitation.

849 (2) The department may contract with another person for a human services
850 procurement item in accordance with the process described in this section.

851 (3) (a) The department may issue an invitation that includes:

852 (i) a description of the human services procurement item the department is seeking to
853 obtain;

854 (ii) (A) the time period for which the invitation will remain open for applications; or

855 (B) if the invitation is an open-ended invitation, a statement that there is no set closing
856 date for the invitation;

857 (iii) the requirements the department has established for the submission of an
858 application;

859 (iv) the payment rate or a description of the process for determining the payment rate
860 for the human services procurement item;

861 (v) the qualifications a provider is required to meet to be awarded a contract for the
862 human ~~§~~ → [service] services ← ~~§~~ procurement item; and

863 (vi) the required terms and conditions of a contract if awarded.

864 (b) The department shall publish the invitation in accordance with the notice
865 requirements for a solicitation described in Section 63G-6a-2506.

866 (c) The department may:

867 (i) provide for an indeterminate or specified time period for a provider to respond to
868 the invitation;

869 (ii) close an invitation if the need for additional providers for a human services
870 procurement item no longer exists; or

871 (iii) reissue an invitation after closing the invitation.

872 (d) The department may provide technical application assistance to a person applying ~~§~~ in
872a response ~~←~~§
873 to an invitation.

874 (4) (a) Upon receipt of an application submitted in response to an invitation, the
875 department shall:

876 (i) review the application to determine:

877 (A) the application's compliance with the requirements referred to in Subsection
878 (3)(a)(iii); and

879 (B) whether the person that submitted the application meets the qualifications referred
880 to in Subsection (3)(a)(v);

881 (ii) award a contract to a person:

882 (A) whose application complies with the requirements referred to in Subsection
883 (3)(a)(iii); and

884 (B) that meets the qualifications referred to in Subsection (3)(a)(v); and

885 (iii) reject an application if:

886 (A) the application does not comply with the requirements referred to in Subsection
887 (3)(a)(iii); or

888 (B) the person that submitted the application does not meet the qualifications referred
889 to in Subsection (3)(a)(v).

890 (b) If the department closes an invitation, the department may reject an application
891 submitted before the invitation is closed.

892 (c) The department may allow a person to correct deficiencies in an application during
893 the department's review of the application under Subsection (4)(a).