

PROCUREMENT CODE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Anthony E. Loubet

Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill modifies provisions of the Utah Procurement Code.

Highlighted Provisions:

This bill:

► modifies the definition of "procurement unit," for purposes of the Utah Procurement Code, to include political subdivisions created under the Interlocal Cooperation Act, with an exception; and

► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-6a-103, as last amended by Laws of Utah 2023, Chapter 16

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

Section 1. Section **63G-6a-103** is amended to read:

63G-6a-103. Definitions.

As used in this chapter:



28 (1) "Approved vendor" means a person who has been approved for inclusion on an
29 approved vendor list through the approved vendor list process.

30 (2) "Approved vendor list" means a list of approved vendors established under Section
31 [63G-6a-507](#).

32 (3) "Approved vendor list process" means the procurement process described in
33 Section [63G-6a-507](#).

34 (4) "Bidder" means a person who submits a bid or price quote in response to an
35 invitation for bids.

36 (5) "Bidding process" means the procurement process described in Part 6, Bidding.

37 (6) "Board" means the Utah State Procurement Policy Board, created in Section
38 [63G-6a-202](#).

39 (7) "Change directive" means a written order signed by the procurement officer that
40 directs the contractor to suspend work or make changes, as authorized by contract, without the
41 consent of the contractor.

42 (8) "Change order" means a written alteration in specifications, delivery point, rate of
43 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual
44 agreement of the parties to the contract.

45 (9) "Chief procurement officer" means the individual appointed under Section
46 [63A-2-102](#).

47 (10) "Conducting procurement unit" means a procurement unit that conducts all
48 aspects of a procurement:

49 (a) except:

50 (i) reviewing a solicitation to verify that it is in proper form; and

51 (ii) causing the publication of a notice of a solicitation; and

52 (b) including:

53 (i) preparing any solicitation document;

54 (ii) appointing an evaluation committee;

55 (iii) conducting the evaluation process, except the process relating to scores calculated
56 for costs of proposals;

57 (iv) selecting and recommending the person to be awarded a contract;

58 (v) negotiating the terms and conditions of a contract, subject to the issuing

59 procurement unit's approval; and

60 (vi) contract administration.

61 (11) "Conservation district" means the same as that term is defined in Section
62 17D-3-102.

63 (12) "Construction project":

64 (a) means a project for the construction, renovation, alteration, improvement, or repair
65 of a public facility on real property, including all services, labor, supplies, and materials for the
66 project; and

67 (b) does not include services and supplies for the routine, day-to-day operation, repair,
68 or maintenance of an existing public facility.

69 (13) "Construction manager/general contractor":

70 (a) means a contractor who enters into a contract:

71 (i) for the management of a construction project; and

72 (ii) that allows the contractor to subcontract for additional labor and materials that are
73 not included in the contractor's cost proposal submitted at the time of the procurement of the
74 contractor's services; and

75 (b) does not include a contractor whose only subcontract work not included in the
76 contractor's cost proposal submitted as part of the procurement of the contractor's services is to
77 meet subcontracted portions of change orders approved within the scope of the project.

78 (14) "Construction subcontractor":

79 (a) means a person under contract with a contractor or another subcontractor to provide
80 services or labor for the design or construction of a construction project;

81 (b) includes a general contractor or specialty contractor licensed or exempt from
82 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

83 (c) does not include a supplier who provides only materials, equipment, or supplies to a
84 contractor or subcontractor for a construction project.

85 (15) "Contract" means an agreement for a procurement.

86 (16) "Contract administration" means all functions, duties, and responsibilities
87 associated with managing, overseeing, and carrying out a contract between a procurement unit
88 and a contractor, including:

89 (a) implementing the contract;

90 (b) ensuring compliance with the contract terms and conditions by the conducting
91 procurement unit and the contractor;

92 (c) executing change orders;

93 (d) processing contract amendments;

94 (e) resolving, to the extent practicable, contract disputes;

95 (f) curing contract errors and deficiencies;

96 (g) terminating a contract;

97 (h) measuring or evaluating completed work and contractor performance;

98 (i) computing payments under the contract; and

99 (j) closing out a contract.

100 (17) "Contractor" means a person who is awarded a contract with a procurement unit.

101 (18) "Cooperative procurement" means procurement conducted by, or on behalf of:

102 (a) more than one procurement unit; or

103 (b) a procurement unit and a cooperative purchasing organization.

104 (19) "Cooperative purchasing organization" means an organization, association, or
105 alliance of purchasers established to combine purchasing power in order to obtain the best
106 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).

107 (20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the
108 contractor is paid a percentage of the total actual expenses or costs in addition to the
109 contractor's actual expenses or costs.

110 (21) "Cost-reimbursement contract" means a contract under which a contractor is
111 reimbursed for costs which are allowed and allocated in accordance with the contract terms and
112 the provisions of this chapter, and a fee, if any.

113 (22) "Days" means calendar days, unless expressly provided otherwise.

114 (23) "Definite quantity contract" means a fixed price contract that provides for a
115 specified amount of supplies over a specified period, with deliveries scheduled according to a
116 specified schedule.

117 (24) "Design professional" means:

118 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects
119 Licensing Act;

120 (b) an individual licensed as a professional engineer or professional land surveyor

121 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing
122 Act; or

123 (c) an individual certified as a commercial interior designer under Title 58, Chapter 86,
124 State Certification of Commercial Interior Designers Act.

125 (25) "Design professional procurement process" means the procurement process
126 described in Part 15, Design Professional Services.

127 (26) "Design professional services" means:

128 (a) professional services within the scope of the practice of architecture as defined in
129 Section 58-3a-102;

130 (b) professional engineering as defined in Section 58-22-102;

131 (c) master planning and programming services; or

132 (d) services within the scope of the practice of commercial interior design, as defined
133 in Section 58-86-102.

134 (27) "Design-build" means the procurement of design professional services and
135 construction by the use of a single contract.

136 (28) "Division" means the Division of Purchasing and General Services, created in
137 Section 63A-2-101.

138 (29) "Educational procurement unit" means:

139 (a) a school district;

140 (b) a public school, including a local school board or a charter school;

141 (c) the Utah Schools for the Deaf and the Blind;

142 (d) the Utah Education and Telehealth Network;

143 (e) an institution of higher education of the state described in Section 53B-1-102; or

144 (f) the State Board of Education.

145 (30) "Established catalogue price" means the price included in a catalogue, price list,
146 schedule, or other form that:

147 (a) is regularly maintained by a manufacturer or contractor;

148 (b) is published or otherwise available for inspection by customers; and

149 (c) states prices at which sales are currently or were last made to a significant number
150 of any category of buyers or buyers constituting the general buying public for the supplies or
151 services involved.

152 (31) (a) "Executive branch procurement unit" means a department, division, office,
153 bureau, agency, or other organization within the state executive branch.

154 (b) "Executive branch procurement unit" does not include the Colorado River
155 Authority of Utah as provided in Section [63M-14-210](#).

156 (32) "Facilities division" means the Division of Facilities Construction and
157 Management, created in Section [63A-5b-301](#).

158 (33) "Fixed price contract" means a contract that provides a price, for each
159 procurement item obtained under the contract, that is not subject to adjustment except to the
160 extent that:

161 (a) the contract provides, under circumstances specified in the contract, for an
162 adjustment in price that is not based on cost to the contractor; or

163 (b) an adjustment is required by law.

164 (34) "Fixed price contract with price adjustment" means a fixed price contract that
165 provides for an upward or downward revision of price, precisely described in the contract, that:

166 (a) is based on the consumer price index or another commercially acceptable index,
167 source, or formula; and

168 (b) is not based on a percentage of the cost to the contractor.

169 (35) "Grant" means an expenditure of public funds or other assistance, or an agreement
170 to expend public funds or other assistance, for a public purpose authorized by law, without
171 acquiring a procurement item in exchange.

172 (36) "Immaterial error":

173 (a) means an irregularity or abnormality that is:

174 (i) a matter of form that does not affect substance; or

175 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,
176 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

177 (b) includes:

178 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a
179 professional license, bond, or insurance certificate;

180 (ii) a typographical error;

181 (iii) an error resulting from an inaccuracy or omission in the solicitation; and

182 (iv) any other error that the procurement official reasonably considers to be immaterial.

- 183 (37) "Indefinite quantity contract" means a fixed price contract that:
- 184 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
- 185 procurement unit; and
- 186 (b) (i) does not require a minimum purchase amount; or
- 187 (ii) provides a maximum purchase limit.
- 188 (38) "Independent procurement unit" means:
- 189 (a) (i) a legislative procurement unit;
- 190 (ii) a judicial branch procurement unit;
- 191 (iii) an educational procurement unit;
- 192 (iv) a local government procurement unit;
- 193 (v) a conservation district;
- 194 (vi) a local building authority;
- 195 (vii) a special district;
- 196 (viii) a public corporation;
- 197 (ix) a special service district; or
- 198 (x) the Utah Communications Authority, established in Section [63H-7a-201](#);
- 199 (b) the facilities division, but only to the extent of the procurement authority provided
- 200 under Title 63A, Chapter 5b, Administration of State Facilities;
- 201 (c) the attorney general, but only to the extent of the procurement authority provided
- 202 under Title 67, Chapter 5, Attorney General;
- 203 (d) the Department of Transportation, but only to the extent of the procurement
- 204 authority provided under Title 72, Transportation Code; or
- 205 (e) any other executive branch department, division, office, or entity that has statutory
- 206 procurement authority outside this chapter, but only to the extent of that statutory procurement
- 207 authority.
- 208 (39) "Invitation for bids":
- 209 (a) means a document used to solicit:
- 210 (i) bids to provide a procurement item to a procurement unit; or
- 211 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
- 212 (b) includes all documents attached to or incorporated by reference in a document
- 213 described in Subsection (39)(a).

- 214 (40) "Issuing procurement unit" means a procurement unit that:
- 215 (a) reviews a solicitation to verify that it is in proper form;
- 216 (b) causes the notice of a solicitation to be published; and
- 217 (c) negotiates and approves the terms and conditions of a contract.
- 218 (41) "Judicial procurement unit" means:
- 219 (a) the Utah Supreme Court;
- 220 (b) the Utah Court of Appeals;
- 221 (c) the Judicial Council;
- 222 (d) a state judicial district; or
- 223 (e) an office, committee, subcommittee, or other organization within the state judicial
- 224 branch.
- 225 (42) "Labor hour contract" is a contract under which:
- 226 (a) the supplies and materials are not provided by, or through, the contractor; and
- 227 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
- 228 profit for a specified number of labor hours or days.
- 229 (43) "Legislative procurement unit" means:
- 230 (a) the Legislature;
- 231 (b) the Senate;
- 232 (c) the House of Representatives;
- 233 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- 234 (e) a committee, subcommittee, commission, or other organization:
- 235 (i) within the state legislative branch; or
- 236 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;
- 237 (B) the membership of which includes legislators; and
- 238 (C) for which the Office of Legislative Research and General Counsel provides staff
- 239 support.
- 240 (44) "Local building authority" means the same as that term is defined in Section
- 241 [17D-2-102](#).
- 242 (45) "Local government procurement unit" means:
- 243 (a) a county, municipality, or project entity, and each office of the county, municipality,
- 244 or project entity, unless:

- 245 (i) the county or municipality adopts a procurement code by ordinance; or
- 246 (ii) the project entity adopts a procurement code through the process described in
- 247 Section 11-13-316;
- 248 (b) (i) a county or municipality that has adopted this entire chapter by ordinance, and
- 249 each office or agency of that county or municipality; and
- 250 (ii) a project entity that has adopted this entire chapter through the process described in
- 251 Subsection 11-13-316; or
- 252 (c) a county, municipality, or project entity, and each office of the county, municipality,
- 253 or project entity that has adopted a portion of this chapter to the extent that:
- 254 (i) a term in the ordinance is used in the adopted chapter; or
- 255 (ii) a term in the ordinance is used in the language a project entity adopts in its
- 256 procurement code through the process described in Section 11-13-316.
- 257 (46) "Multiple award contracts" means the award of a contract for an indefinite
- 258 quantity of a procurement item to more than one person.
- 259 (47) "Multiyear contract" means a contract that extends beyond a one-year period,
- 260 including a contract that permits renewal of the contract, without competition, beyond the first
- 261 year of the contract.
- 262 (48) "Municipality" means a city, town, or metro township.
- 263 (49) "Nonadopting local government procurement unit" means:
- 264 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,
- 265 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,
- 266 General Provisions Related to Protest or Appeal; and
- 267 (b) each office or agency of a county or municipality described in Subsection (49)(a).
- 268 (50) "Offeror" means a person who submits a proposal in response to a request for
- 269 proposals.
- 270 (51) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
- 271 under the requirements of this chapter.
- 272 (52) "Procure" means to acquire a procurement item through a procurement.
- 273 (53) "Procurement" means the acquisition of a procurement item through an
- 274 expenditure of public funds, or an agreement to expend public funds, including an acquisition
- 275 through a public-private partnership.

276 (54) "Procurement item" means an item of personal property, a technology, a service,
277 or a construction project.

278 (55) "Procurement official" means:

279 (a) for a procurement unit other than an independent procurement unit, the chief
280 procurement officer;

281 (b) for a legislative procurement unit, the individual, individuals, or body designated in
282 a policy adopted by the Legislative Management Committee;

283 (c) for a judicial procurement unit, the Judicial Council or an individual or body
284 designated by the Judicial Council by rule;

285 (d) for a local government procurement unit:

286 (i) the legislative body of the local government procurement unit; or

287 (ii) an individual or body designated by the local government procurement unit;

288 (e) for a special district, the board of trustees of the special district or the board of
289 trustees' designee;

290 (f) for a special service district, the governing body of the special service district or the
291 governing body's designee;

292 (g) for a local building authority, the board of directors of the local building authority
293 or the board of directors' designee;

294 (h) for a conservation district, the board of supervisors of the conservation district or
295 the board of supervisors' designee;

296 (i) for a public corporation, the board of directors of the public corporation or the board
297 of directors' designee;

298 (j) for a school district or any school or entity within a school district, the board of the
299 school district or the board's designee;

300 (k) for a charter school, the individual or body with executive authority over the charter
301 school or the designee of the individual or body;

302 (l) for an institution of higher education described in Section [53B-2-101](#), the president
303 of the institution of higher education or the president's designee;

304 (m) for the State Board of Education, the State Board of Education or the State Board
305 of Education's designee;

306 (n) for the Utah Board of Higher Education, the Commissioner of Higher Education or

307 the designee of the Commissioner of Higher Education;

308 (o) for the Utah Communications Authority, established in Section 63H-7a-201, the
309 executive director of the Utah Communications Authority or the executive director's designee;
310 or

311 (p) (i) for the facilities division, and only to the extent of procurement activities of the
312 facilities division as an independent procurement unit under the procurement authority
313 provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the
314 facilities division or the director's designee;

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

319 (iii) for the Department of Transportation created in Section 72-1-201, and only to the
320 extent of procurement activities of the Department of Transportation as an independent
321 procurement unit under the procurement authority provided under Title 72, Transportation
322 Code, the executive director of the Department of Transportation or the executive director's
323 designee; or

324 (iv) for any other executive branch department, division, office, or entity that has
325 statutory procurement authority outside this chapter, and only to the extent of the procurement
326 activities of the department, division, office, or entity as an independent procurement unit
327 under the procurement authority provided outside this chapter for the department, division,
328 office, or entity, the chief executive officer of the department, division, office, or entity or the
329 chief executive officer's designee.

330 (56) (a) "Procurement unit" ~~[(a)]~~ means:

331 (i) a legislative procurement unit;

332 (ii) an executive branch procurement unit;

333 (iii) a judicial procurement unit;

334 (iv) an educational procurement unit;

335 (v) the Utah Communications Authority, established in Section 63H-7a-201;

336 (vi) a local government procurement unit;

337 (vii) a special district;

338 (viii) a special service district;
339 (ix) a local building authority;
340 (x) a conservation district; ~~[and]~~
341 (xi) a public corporation; ~~[and]~~ or
342 (xii) except as provided in Subsection (56)(b), a political subdivision created under
343 Title 11, Chapter 13, Interlocal Cooperation Act.

344 ~~[(b) except for a project entity, to the extent that a project entity is subject to this~~
345 ~~chapter as described in Section 11-13-316, does not include a political subdivision created~~
346 ~~under Title 11, Chapter 13, Interlocal Cooperation Act.]~~

347 (b) "Procurement unit" does not include a project entity, except to the extent that a
348 project entity is subject to this chapter as provided in Section 11-13-316.

349 (57) "Professional service" means labor, effort, or work that requires specialized
350 knowledge, expertise, and discretion, including labor, effort, or work in the field of:

- 351 (a) accounting;
- 352 (b) administrative law judge service;
- 353 (c) architecture;
- 354 (d) construction design and management;
- 355 (e) engineering;
- 356 (f) financial services;
- 357 (g) information technology;
- 358 (h) the law;
- 359 (i) medicine;
- 360 (j) psychiatry; or
- 361 (k) underwriting.

362 (58) "Project entity" means the same as that term is defined in Section 11-13-103.

363 ~~[(58)] (59) "Protest officer" means:~~

- 364 (a) for the division or an independent procurement unit:
 - 365 (i) the procurement official;
 - 366 (ii) the procurement official's designee who is an employee of the procurement unit; or
 - 367 (iii) a person designated by rule made by the rulemaking authority; or
- 368 (b) for a procurement unit other than an independent procurement unit, the chief

369 procurement officer or the chief procurement officer's designee who is an employee of the
370 division .

371 ~~[(59)]~~ (60) "Public corporation" means the same as that term is defined in Section
372 63E-1-102.

373 ~~[(60) "Project entity" means the same as that term is defined in Section 11-13-103.]~~

374 (61) "Public entity" means the state or any other government entity within the state that
375 expends public funds.

376 (62) "Public facility" means a building, structure, infrastructure, improvement, or other
377 facility of a public entity.

378 (63) "Public funds" means money, regardless of its source, including from the federal
379 government, that is owned or held by a procurement unit.

380 (64) "Public transit district" means a public transit district organized under Title 17B,
381 Chapter 2a, Part 8, Public Transit District Act.

382 (65) "Public-private partnership" means an arrangement or agreement, occurring on or
383 after January 1, 2017, between a procurement unit and one or more contractors to provide for a
384 public need through the development or operation of a project in which the contractor or
385 contractors share with the procurement unit the responsibility or risk of developing, owning,
386 maintaining, financing, or operating the project.

387 (66) "Qualified vendor" means a vendor who:

388 (a) is responsible; and

389 (b) submits a responsive statement of qualifications under Section 63G-6a-410 that
390 meets the minimum mandatory requirements, evaluation criteria, and any applicable score
391 thresholds set forth in the request for statement of qualifications.

392 (67) "Real property" means land and any building, fixture, improvement, appurtenance,
393 structure, or other development that is permanently affixed to land.

394 (68) "Request for information" means a nonbinding process through which a
395 procurement unit requests information relating to a procurement item.

396 (69) "Request for proposals" means a document used to solicit proposals to provide a
397 procurement item to a procurement unit, including all other documents that are attached to that
398 document or incorporated in that document by reference.

399 (70) "Request for proposals process" means the procurement process described in Part

400 7, Request for Proposals.

401 (71) "Request for statement of qualifications" means a document used to solicit
402 information about the qualifications of a person interested in responding to a potential
403 procurement, including all other documents attached to that document or incorporated in that
404 document by reference.

405 (72) "Requirements contract" means a contract:

406 (a) under which a contractor agrees to provide a procurement unit's entire requirements
407 for certain procurement items at prices specified in the contract during the contract period; and

408 (b) that:

409 (i) does not require a minimum purchase amount; or

410 (ii) provides a maximum purchase limit.

411 (73) "Responsible" means being capable, in all respects, of:

412 (a) meeting all the requirements of a solicitation; and

413 (b) fully performing all the requirements of the contract resulting from the solicitation,
414 including being financially solvent with sufficient financial resources to perform the contract.

415 (74) "Responsive" means conforming in all material respects to the requirements of a
416 solicitation.

417 (75) "Rule" includes a policy or regulation adopted by the rulemaking authority, if
418 adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions
419 that govern the applicable procurement unit.

420 (76) "Rulemaking authority" means:

421 (a) for a legislative procurement unit, the Legislative Management Committee;

422 (b) for a judicial procurement unit, the Judicial Council;

423 (c) (i) only to the extent of the procurement authority expressly granted to the
424 procurement unit by statute:

425 (A) for the facilities division, the facilities division;

426 (B) for the Office of the Attorney General, the attorney general;

427 (C) for the Department of Transportation created in Section [72-1-201](#), the executive
428 director of the Department of Transportation; and

429 (D) for any other executive branch department, division, office, or entity that has
430 statutory procurement authority outside this chapter, the governing authority of the department,

431 division, office, or entity; and

432 (ii) for each other executive branch procurement unit, the board;

433 (d) for a local government procurement unit:

434 (i) the governing body of the local government unit; or

435 (ii) an individual or body designated by the local government procurement unit;

436 (e) for a school district or a public school, the board, except to the extent of a school

437 district's own nonadministrative rules that do not conflict with the provisions of this chapter;

438 (f) for a state institution of higher education, the Utah Board of Higher Education;

439 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the

440 State Board of Education;

441 (h) for a public transit district, the chief executive of the public transit district;

442 (i) for a special district other than a public transit district or for a special service

443 district, the board, except to the extent that the board of trustees of the special district or the

444 governing body of the special service district makes its own rules:

445 (i) with respect to a subject addressed by board rules; or

446 (ii) that are in addition to board rules;

447 (j) for the Utah Educational Savings Plan, created in Section [53B-8a-103](#), the Utah

448 Board of Higher Education;

449 (k) for the School and Institutional Trust Lands Administration, created in Section

450 [53C-1-201](#), the School and Institutional Trust Lands Board of Trustees;

451 (l) for the School and Institutional Trust Fund Office, created in Section [53D-1-201](#),

452 the School and Institutional Trust Fund Board of Trustees;

453 (m) for the Utah Communications Authority, established in Section [63H-7a-201](#), the

454 Utah Communications Authority board, created in Section [63H-7a-203](#); or

455 (n) for any other procurement unit, the board.

456 (77) "Service":

457 (a) means labor, effort, or work to produce a result that is beneficial to a procurement

458 unit;

459 (b) includes a professional service; and

460 (c) does not include labor, effort, or work provided under an employment agreement or

461 a collective bargaining agreement.

462 (78) "Small purchase process" means the procurement process described in Section
463 [63G-6a-506](#).

464 (79) "Sole source contract" means a contract resulting from a sole source procurement.

465 (80) "Sole source procurement" means a procurement without competition pursuant to
466 a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source for the
467 procurement item.

468 (81) "Solicitation" means an invitation for bids, request for proposals, or request for
469 statement of qualifications.

470 (82) "Solicitation response" means:

471 (a) a bid submitted in response to an invitation for bids;

472 (b) a proposal submitted in response to a request for proposals; or

473 (c) a statement of qualifications submitted in response to a request for statement of
474 qualifications.

475 (83) "Special district" means the same as that term is defined in Section [17B-1-102](#).

476 (84) "Special service district" means the same as that term is defined in Section
477 [17D-1-102](#).

478 (85) "Specification" means any description of the physical or functional characteristics
479 or of the nature of a procurement item included in an invitation for bids or a request for
480 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

481 (a) a requirement for inspecting or testing a procurement item; or

482 (b) preparing a procurement item for delivery.

483 (86) "Standard procurement process" means:

484 (a) the bidding process;

485 (b) the request for proposals process;

486 (c) the approved vendor list process;

487 (d) the small purchase process; or

488 (e) the design professional procurement process.

489 (87) "State cooperative contract" means a contract awarded by the division for and in
490 behalf of all public entities.

491 (88) "Statement of qualifications" means a written statement submitted to a
492 procurement unit in response to a request for statement of qualifications.

493 (89) "Subcontractor":

494 (a) means a person under contract to perform part of a contractual obligation under the
495 control of the contractor, whether the person's contract is with the contractor directly or with
496 another person who is under contract to perform part of a contractual obligation under the
497 control of the contractor; and

498 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services
499 to a contractor.

500 (90) "Technology" means the same as "information technology," as defined in Section
501 [63A-16-102](#).

502 (91) "Tie bid" means that the lowest responsive bids of responsible bidders are
503 identical in price.

504 (92) "Time and materials contract" means a contract under which the contractor is paid:

505 (a) the actual cost of direct labor at specified hourly rates;

506 (b) the actual cost of materials and equipment usage; and

507 (c) an additional amount, expressly described in the contract, to cover overhead and
508 profit, that is not based on a percentage of the cost to the contractor.

509 (93) "Transitional costs":

510 (a) means the costs of changing:

511 (i) from an existing provider of a procurement item to another provider of that
512 procurement item; or

513 (ii) from an existing type of procurement item to another type;

514 (b) includes:

515 (i) training costs;

516 (ii) conversion costs;

517 (iii) compatibility costs;

518 (iv) costs associated with system downtime;

519 (v) disruption of service costs;

520 (vi) staff time necessary to implement the change;

521 (vii) installation costs; and

522 (viii) ancillary software, hardware, equipment, or construction costs; and

523 (c) does not include:

- 524 (i) the costs of preparing for or engaging in a procurement process; or
 - 525 (ii) contract negotiation or drafting costs.
 - 526 (94) "Vendor":
 - 527 (a) means a person who is seeking to enter into a contract with a procurement unit to
 - 528 provide a procurement item; and
 - 529 (b) includes:
 - 530 (i) a bidder;
 - 531 (ii) an offeror;
 - 532 (iii) an approved vendor;
 - 533 (iv) a design professional; and
 - 534 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).
- 535 **Section 2. Effective date.**
- 536 This bill takes effect on May 1, 2024.