

1 **DESIGN PROFESSIONAL SERVICES PROCUREMENT**

2 **AMENDMENTS**

3 2024 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bridger Bolinder**

6 Senate Sponsor: Daniel McCay

7

LONG TITLE

8 **General Description:**

9 This bill modifies provisions of the Utah Procurement Code.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the definition of design professional, for purposes of the Utah Procurement
- 13 Code, to include landscape architects.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **63G-6a-103**, as last amended by Laws of Utah 2023, Chapter 16

21

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

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

23 **63G-6a-103. Definitions.**

24 As used in this chapter:

25 (1) "Approved vendor" means a person who has been approved for inclusion on an



28 approved vendor list through the approved vendor list process.

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

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

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

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

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

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

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

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

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

48 (a) except:

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

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

51 (b) including:

52 (i) preparing any solicitation document;

53 (ii) appointing an evaluation committee;

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

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

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

58 procurement unit's approval; and

59 (vi) contract administration.

60 (11) "Conservation district" means the same as that term is defined in Section

61 17D-3-102.

62 (12) "Construction project":

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

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

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

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

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

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

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

77 (14) "Construction subcontractor":

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

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

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

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

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

88 (a) implementing the contract;

89 (b) ensuring compliance with the contract terms and conditions by the conducting

90 procurement unit and the contractor;

91 (c) executing change orders;

92 (d) processing contract amendments;

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

94 (f) curing contract errors and deficiencies;

95 (g) terminating a contract;

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

97 (i) computing payments under the contract; and

98 (j) closing out a contract.

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

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

101 (a) more than one procurement unit; or

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

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

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

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

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

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

116 (24) "Design professional" means:

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

119 (b) an individual licensed as a professional engineer or professional land surveyor
120 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing

121 Act;

122 (c) an individual licensed under Title 58, Chapter 53, Landscape Architects Licensing
123 Act, to engage in the practice of landscape architecture, as defined in Section 58-53-102; or

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

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

128 (26) "Design professional services" means:

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

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

132 (c) master planning and programming services;

133 (d) professional services within the scope of the practice of landscape architecture, as
134 defined in Section 58-53-102; or

135 [~~d~~] (e) services within the scope of the practice of commercial interior design, as
136 defined in Section 58-86-102.

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

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

141 (29) "Educational procurement unit" means:

142 (a) a school district;

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

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

145 (d) the Utah Education and Telehealth Network;

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

147 (f) the State Board of Education.

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

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

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

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

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

157 (b) "Executive branch procurement unit" does not include the Colorado River
158 Authority of Utah as provided in Section 63M-14-210.

159 (32) "Facilities division" means the Division of Facilities Construction and
160 Management, created in Section 63A-5b-301.

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

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

166 (b) an adjustment is required by law.

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

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

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

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

175 (36) "Immaterial error":

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

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

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

180 (b) includes:

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

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

214 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
215 (b) includes all documents attached to or incorporated by reference in a document
216 described in Subsection (39)(a).

217 (40) "Issuing procurement unit" means a procurement unit that:

- 218 (a) reviews a solicitation to verify that it is in proper form;
- 219 (b) causes the notice of a solicitation to be published; and
- 220 (c) negotiates and approves the terms and conditions of a contract.

221 (41) "Judicial procurement unit" means:

- 222 (a) the Utah Supreme Court;
- 223 (b) the Utah Court of Appeals;
- 224 (c) the Judicial Council;
- 225 (d) a state judicial district; or
- 226 (e) an office, committee, subcommittee, or other organization within the state judicial
227 branch.

228 (42) "Labor hour contract" is a contract under which:

- 229 (a) the supplies and materials are not provided by, or through, the contractor; and
- 230 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
231 profit for a specified number of labor hours or days.

232 (43) "Legislative procurement unit" means:

- 233 (a) the Legislature;
- 234 (b) the Senate;
- 235 (c) the House of Representatives;
- 236 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- 237 (e) a committee, subcommittee, commission, or other organization:
 - 238 (i) within the state legislative branch; or
 - 239 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;
 - 240 (B) the membership of which includes legislators; and
 - 241 (C) for which the Office of Legislative Research and General Counsel provides staff
242 support.

243 (44) "Local building authority" means the same as that term is defined in Section
244 [17D-2-102](#).

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

276 (53) "Procurement" means the acquisition of a procurement item through an
277 expenditure of public funds, or an agreement to expend public funds, including an acquisition
278 through a public-private partnership.

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

281 (55) "Procurement official" means:

282 (a) for a procurement unit other than an independent procurement unit, the chief
283 procurement officer;

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

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

288 (d) for a local government procurement unit:

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

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

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

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

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

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

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

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

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

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

307 (m) for the State Board of Education, the State Board of Education or the State Board
308 of Education's designee;

309 (n) for the Utah Board of Higher Education, the Commissioner of Higher Education or
310 the designee of the Commissioner of Higher Education;

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

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

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

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

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

333 (56) "Procurement unit":

334 (a) means:

335 (i) a legislative procurement unit;

336 (ii) an executive branch procurement unit;

337 (iii) a judicial procurement unit;

- 338 (iv) an educational procurement unit;
- 339 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);
- 340 (vi) a local government procurement unit;
- 341 (vii) a special district;
- 342 (viii) a special service district;
- 343 (ix) a local building authority;
- 344 (x) a conservation district; and
- 345 (xi) a public corporation; and

346 (b) except for a project entity, to the extent that a project entity is subject to this chapter
347 as described in Section [11-13-316](#), does not include a political subdivision created under Title
348 11, Chapter 13, Interlocal Cooperation Act.

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) "Protest officer" means:

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

369 division .

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

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

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

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

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

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

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

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

386 (a) is responsible; and

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

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

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

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

397 (70) "Request for proposals process" means the procurement process described in Part
398 7, Request for Proposals.

399 (71) "Request for statement of qualifications" means a document used to solicit

400 information about the qualifications of a person interested in responding to a potential
401 procurement, including all other documents attached to that document or incorporated in that
402 document by reference.

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

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

406 (b) that:

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

408 (ii) provides a maximum purchase limit.

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

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

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

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

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

418 (76) "Rulemaking authority" means:

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

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

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

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

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

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

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

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

- 431 (d) for a local government procurement unit:
- 432 (i) the governing body of the local government unit; or
- 433 (ii) an individual or body designated by the local government procurement unit;
- 434 (e) for a school district or a public school, the board, except to the extent of a school
- 435 district's own nonadministrative rules that do not conflict with the provisions of this chapter;
- 436 (f) for a state institution of higher education, the Utah Board of Higher Education;
- 437 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the
- 438 State Board of Education;
- 439 (h) for a public transit district, the chief executive of the public transit district;
- 440 (i) for a special district other than a public transit district or for a special service
- 441 district, the board, except to the extent that the board of trustees of the special district or the
- 442 governing body of the special service district makes its own rules:
- 443 (i) with respect to a subject addressed by board rules; or
- 444 (ii) that are in addition to board rules;
- 445 (j) for the Utah Educational Savings Plan, created in Section [53B-8a-103](#), the Utah
- 446 Board of Higher Education;
- 447 (k) for the School and Institutional Trust Lands Administration, created in Section
- 448 [53C-1-201](#), the School and Institutional Trust Lands Board of Trustees;
- 449 (l) for the School and Institutional Trust Fund Office, created in Section [53D-1-201](#),
- 450 the School and Institutional Trust Fund Board of Trustees;
- 451 (m) for the Utah Communications Authority, established in Section [63H-7a-201](#), the
- 452 Utah Communications Authority board, created in Section [63H-7a-203](#); or
- 453 (n) for any other procurement unit, the board.
- 454 (77) "Service":
- 455 (a) means labor, effort, or work to produce a result that is beneficial to a procurement
- 456 unit;
- 457 (b) includes a professional service; and
- 458 (c) does not include labor, effort, or work provided under an employment agreement or
- 459 a collective bargaining agreement.
- 460 (78) "Small purchase process" means the procurement process described in Section
- 461 [63G-6a-506](#).

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

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

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

468 (82) "Solicitation response" means:

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

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

471 (c) a statement of qualifications submitted in response to a request for statement of
472 qualifications.

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

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

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

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

480 (b) preparing a procurement item for delivery.

481 (86) "Standard procurement process" means:

482 (a) the bidding process;

483 (b) the request for proposals process;

484 (c) the approved vendor list process;

485 (d) the small purchase process; or

486 (e) the design professional procurement process.

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

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

491 (89) "Subcontractor":

492 (a) means a person under contract to perform part of a contractual obligation under the

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

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

498 (90) "Technology" means the same as "information technology," as defined in Section
499 [63A-16-102](#).

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

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

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

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

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

507 (93) "Transitional costs":

508 (a) means the costs of changing:

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

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

512 (b) includes:

513 (i) training costs;

514 (ii) conversion costs;

515 (iii) compatibility costs;

516 (iv) costs associated with system downtime;

517 (v) disruption of service costs;

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

519 (vii) installation costs; and

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

521 (c) does not include:

522 (i) the costs of preparing for or engaging in a procurement process; or

523 (ii) contract negotiation or drafting costs.

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