

DESIGN AND BUILD AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Kay J. Christofferson

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LONG TITLE

General Description:

This bill amends the definition of a design-build project in relation to building improvements and public works projects.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a design-build project; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

**11-39-101**, as last amended by Laws of Utah 2016, Chapter 176

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

Section 1. Section **11-39-101** is amended to read:

**11-39-101. Definitions.**

As used in this chapter:

(1) "Bid limit" means:

(a) for a building improvement:

(i) for the year 2003, \$40,000; and

30 (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an  
31 amount calculated by multiplying the amount of the bid limit for the previous year by the lesser  
32 of 3% or the actual percent change in the Consumer Price Index during the previous calendar  
33 year; and

34 (b) for a public works project:

35 (i) for the year 2003, \$125,000; and

36 (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an  
37 amount calculated by multiplying the amount of the bid limit for the previous year by the lesser  
38 of 3% or the actual percent change in the Consumer Price Index during the previous calendar  
39 year.

40 (2) "Building improvement":

41 (a) means the construction or repair of a public building or structure; and

42 (b) does not include construction or repair at an international airport.

43 (3) "Consumer Price Index" means the Consumer Price Index for All Urban  
44 Consumers as published by the Bureau of Labor Statistics of the United States Department of  
45 Labor.

46 (4) (a) "Design-build project" ~~[(a)]~~ means a building improvement or public works  
47 project ~~[costing over \$250,000 with respect to]~~ for which both the design and construction are  
48 provided for in a single contract with a contractor or combination of contractors capable of  
49 providing design-build services ~~[; and]~~.

50 (b) "Design-build project" does not include a building improvement or public works  
51 project:

52 (i) that ~~[is undertaken by]~~ a local entity undertakes under contract with a construction  
53 manager that guarantees the contract price and is at risk for any amount over the contract price;  
54 and

55 (ii) each component of which is competitively bid.

56 (5) "Design-build services" means the engineering, architectural, and other services  
57 necessary to formulate and implement a design-build project, including ~~[its]~~ the actual

58 construction of the project.

59 (6) "Emergency repairs" means a building improvement or public works project  
60 undertaken on an expedited basis to:

61 (a) eliminate an imminent risk of damage to or loss of public or private property;

62 (b) remedy a condition that poses an immediate physical danger; or

63 (c) reduce a substantial, imminent risk of interruption of an essential public service.

64 (7) "Governing body" means:

65 (a) for a county, city, town, or metro township, the legislative body of the county, city,  
66 town, or metro township;

67 (b) for a local district, the board of trustees of the local district; and

68 (c) for a special service district:

69 (i) the legislative body of the county, city, or town that established the special service  
70 district, if no administrative control board has been appointed under Section 17D-1-301; or

71 (ii) the administrative control board of the special service district, if an administrative  
72 control board has been appointed under Section 17D-1-301.

73 (8) "Local district" has the same meaning as defined in Section 17B-1-102.

74 (9) "Local entity" means a county, city, town, metro township, local district, or special  
75 service district.

76 (10) "Lowest responsive responsible bidder" means a prime contractor who:

77 (a) has submitted a bid in compliance with the invitation to bid and within the  
78 requirements of the plans and specifications for the building improvement or public works  
79 project;

80 (b) is the lowest bidder that satisfies the local entity's criteria relating to financial  
81 strength, past performance, integrity, reliability, and other factors that the local entity uses to  
82 assess the ability of a bidder to perform fully and in good faith the contract requirements;

83 (c) has furnished a bid bond or equivalent in money as a condition to the award of a  
84 prime contract; and

85 (d) furnishes a payment and performance bond as required by law.

- 86           (11) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah  
87 Procurement Code.
- 88           (12) "Public works project":  
89           (a) means the construction of:  
90           (i) a park or recreational facility; or  
91           (ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or  
92 flood control; and  
93           (b) does not include:  
94           (i) the replacement or repair of existing infrastructure on private property;  
95           (ii) construction commenced before June 1, 2003; and  
96           (iii) construction or repair at an international airport.  
97           (13) "Special service district" has the same meaning as defined in Section [17D-1-102](#).