

1 **CHANGES TO PROCUREMENT CODE**

2 2020 FIFTH SPECIAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David G. Buxton**

5 House Sponsor: Val L. Peterson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah Procurement Code.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ modifies a provision relating to an evaluation committee's authority to change
13 scores after having been submitted to the procurement unit.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 This bill provides a special effective date.

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **63G-6a-707**, as last amended by Laws of Utah 2020, Chapter 365

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

23 Section 1. Section **63G-6a-707** is amended to read:

24 **63G-6a-707. Evaluation committee -- Evaluation of proposals.**

25 (1) A procurement unit shall appoint an evaluation committee of at least three members
26 to evaluate proposals received in response to a request for proposals issued by the procurement
27 unit.

28 (2) The evaluation committee shall evaluate proposals in accordance with the process
29 described in the request for proposals.

30 (3) To determine which proposal provides the best value to the procurement unit, the
31 evaluation committee shall evaluate each responsible offeror's responsive proposal that has not
32 been disqualified from consideration under the provisions of this chapter, using the evaluation
33 criteria described in the request for proposals.

34 (4) Criteria not described in the request for proposals may not be used to evaluate a
35 proposal.

36 (5) A procurement unit shall:

37 (a) appoint evaluation committee members who have at least a general familiarity with
38 or basic understanding of:

39 (i) the technical requirements relating to the type of procurement item that is the
40 subject of the procurement; or

41 (ii) the need that the procurement item is intended to address; and

42 (b) ensure that the evaluation committee and each individual participating in the
43 evaluation committee process:

44 (i) does not have a conflict of interest with any of the offerors;

45 (ii) can fairly evaluate each proposal;

46 (iii) does not contact or communicate with an offeror concerning the procurement
47 outside the official evaluation committee process; and

48 (iv) conducts or participates in the evaluation in a manner that ensures a fair and
49 competitive process and avoids the appearance of impropriety.

50 (6) A procurement unit may authorize an evaluation committee to receive assistance
51 from an expert or consultant to better understand a technical issue involved in the procurement.

52 (7) (a) Except as provided in Subsection (7)(b), an evaluation committee member is
53 prohibited from knowing or having access to information relating to the cost of a proposal until
54 after the evaluation committee submits its recommendation to the procurement unit based on
55 the scores of all criteria other than cost.

56 (b) A procurement official may waive the prohibition of Subsection (7)(a) by signing a
57 written statement indicating why waiving the prohibition is in the best interests of the

58 procurement unit.

59 (8) An evaluation committee may not change its final recommended scores after the
60 evaluation committee has submitted those scores to the procurement unit.

61 (9) (a) The deliberations and other proceedings of an evaluation committee may be
62 held in private.

63 (b) If the evaluation committee is a public body, as defined in Section 52-4-103, the
64 evaluation committee shall comply with Section 52-4-205 in closing a meeting for its
65 deliberations and other proceedings.

66 (10) (a) At the conclusion of the evaluation process, an evaluation committee shall
67 prepare and submit to the procurement unit a written statement that:

68 (i) recommends a proposal for an award of a contract, if the evaluation committee
69 decides to recommend a proposal;

70 (ii) contains the score awarded to the recommended proposal based on the criteria
71 stated in the request for proposals; and

72 (iii) explains how the recommended proposal provides the best value to the
73 procurement unit.

74 (b) A procurement unit is not required to comply with Subsection (10)(a) for a contract
75 with a construction manager/general contractor if the contract is awarded based solely on:

76 (i) the qualifications of the construction manager/general contractor; and

77 (ii) the management fee to be paid to the construction manager/general contractor.

78 **Section 2. Effective date.**

79 If approved by two-thirds of all the members elected to each house, this bill takes effect
80 upon approval by the governor, or the day following the constitutional time limit of Utah
81 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
82 the date of veto override.