

Effective 5/14/2019

53E-3-703 Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.

- (1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.
- (2)
 - (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least 10 days before the bid due date.
 - (b) The advertisement shall state:
 - (i) that proposals for the building project are required to be sealed in accordance with plans and specifications provided by the local school board;
 - (ii) where and when the proposals will be opened;
 - (iii) that the local school board reserves the right to reject any and all proposals; and
 - (iv) that a person that submits a proposal is required to submit a certified check or bid bond, of not less than 5% of the bid in the proposal, to accompany the proposal.
 - (c) The local school board shall publish the advertisement, at a minimum:
 - (i) on the local school board's website; or
 - (ii) on a state website that is:
 - (A) owned or managed by, or provided under contract with, the Division of Purchasing and General Services; and
 - (B) available for the posting of public procurement notices.
- (3)
 - (a) The local school board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.
 - (b) If satisfactory bids are received, the local school board shall award the contract to the lowest responsible bidder.
 - (c) If none of the proposals are satisfactory, all shall be rejected.
 - (d) The local school board shall again advertise in the manner provided in this section.
 - (e) If, after advertising a second time no satisfactory bid is received, the local school board may proceed under its own direction with the required project.
- (4)
 - (a) The check or bond required under Subsection (2)(b) shall be drawn in favor of the local school board.
 - (b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.
- (5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63G-6a-1103.
- (6)
 - (a) A local school board may require in the proposed contract that up to 5% of the contract price be withheld until the project is completed and accepted by the local school board.
 - (b) If money is withheld, the local school board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.
 - (c) This money shall be paid upon completion of the project and acceptance by the local school board.
- (7)

- (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.
- (b) The local school board may use its resources if no satisfactory bids are received under this section.
- (8) If the local school board determines in accordance with Section 63G-6a-1302 to use a construction manager/general contractor as its method of construction contracting management on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the construction manager/general contractor in accordance with the requirements of Title 63G, Chapter 6a, Utah Procurement Code.
- (9) A local school board member may not have a direct or indirect financial interest in the construction project contract.

Amended by Chapter 186, 2019 General Session