

EDUCATION FALSE CLAIMS AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to procurement provisions for the public education system.

Highlighted Provisions:

This bill:

- ▶ makes changes to procurement provisions for school districts, public schools, and the State Board of Education;
- ▶ enacts false claims provisions for educational procurement units;
- ▶ defines terms; and
- ▶ makes technical and conforming 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 2021, Chapters 179, 344, and 345

63G-6a-106, as last amended by Laws of Utah 2021, Chapter 344

63G-6a-2105, as last amended by Laws of Utah 2016, Chapters 348 and 355

ENACTS:

63G-6a-2501, Utah Code Annotated 1953



- 28 [63G-6a-2502](#), Utah Code Annotated 1953
- 29 [63G-6a-2503](#), Utah Code Annotated 1953
- 30 [63G-6a-2504](#), Utah Code Annotated 1953
- 31 [63G-6a-2505](#), Utah Code Annotated 1953
- 32 [63G-6a-2506](#), Utah Code Annotated 1953
- 33 [63G-6a-2507](#), Utah Code Annotated 1953

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

36 Section 1. Section [63G-6a-103](#) is amended to read:

37 **[63G-6a-103](#). Definitions.**

38 As used in this chapter:

- 39 (1) "Approved vendor" means a person who has been approved for inclusion on an
40 approved vendor list through the approved vendor list process.
- 41 (2) "Approved vendor list" means a list of approved vendors established under Section
42 [63G-6a-507](#).
- 43 (3) "Approved vendor list process" means the procurement process described in
44 Section [63G-6a-507](#).
- 45 (4) "Bidder" means a person who submits a bid or price quote in response to an
46 invitation for bids.
- 47 (5) "Bidding process" means the procurement process described in Part 6, Bidding.
- 48 (6) "Board" means the Utah State Procurement Policy Board, created in Section
49 [63G-6a-202](#).
- 50 (7) "Building board" means the State Building Board, created in Section [63A-5b-201](#).
- 51 (8) "Change directive" means a written order signed by the procurement officer that
52 directs the contractor to suspend work or make changes, as authorized by contract, without the
53 consent of the contractor.
- 54 (9) "Change order" means a written alteration in specifications, delivery point, rate of
55 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual
56 agreement of the parties to the contract.
- 57 (10) "Chief procurement officer" means the individual appointed under Section
58 [63A-2-102](#).

- 59 (11) "Conducting procurement unit" means a procurement unit that conducts all
60 aspects of a procurement:
- 61 (a) except:
- 62 (i) reviewing a solicitation to verify that it is in proper form; and
63 (ii) causing the publication of a notice of a solicitation; and
64 (b) including:
- 65 (i) preparing any solicitation document;
66 (ii) appointing an evaluation committee;
67 (iii) conducting the evaluation process, except the process relating to scores calculated
68 for costs of proposals;
- 69 (iv) selecting and recommending the person to be awarded a contract;
70 (v) negotiating the terms and conditions of a contract, subject to the issuing
71 procurement unit's approval; and
72 (vi) contract administration.
- 73 (12) "Conservation district" means the same as that term is defined in Section
74 [17D-3-102](#).
- 75 (13) "Construction project":
- 76 (a) means a project for the construction, renovation, alteration, improvement, or repair
77 of a public facility on real property, including all services, labor, supplies, and materials for the
78 project; and
- 79 (b) does not include services and supplies for the routine, day-to-day operation, repair,
80 or maintenance of an existing public facility.
- 81 (14) "Construction manager/general contractor":
- 82 (a) means a contractor who enters into a contract:
- 83 (i) for the management of a construction project; and
84 (ii) that allows the contractor to subcontract for additional labor and materials that are
85 not included in the contractor's cost proposal submitted at the time of the procurement of the
86 contractor's services; and
- 87 (b) does not include a contractor whose only subcontract work not included in the
88 contractor's cost proposal submitted as part of the procurement of the contractor's services is to
89 meet subcontracted portions of change orders approved within the scope of the project.

90 (15) "Construction subcontractor":

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

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

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

97 (16) "Contract" means an agreement for a procurement.

98 (17) "Contract administration" means all functions, duties, and responsibilities
99 associated with managing, overseeing, and carrying out a contract between a procurement unit
100 and a contractor, including:

101 (a) implementing the contract;

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

104 (c) executing change orders;

105 (d) processing contract amendments;

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

107 (f) curing contract errors and deficiencies;

108 (g) terminating a contract;

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

110 (i) computing payments under the contract; and

111 (j) closing out a contract.

112 (18) "Contractor" means a person who is awarded a contract with a procurement unit.

113 (19) "Cooperative procurement" means procurement conducted by, or on behalf of:

114 (a) more than one procurement unit; or

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

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

119 (21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the
120 contractor is paid a percentage of the total actual expenses or costs in addition to the

121 contractor's actual expenses or costs.

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

125 (23) "Days" means calendar days, unless expressly provided otherwise.

126 (24) "Definite quantity contract" means a fixed price contract that provides for a
127 specified amount of supplies over a specified period, with deliveries scheduled according to a
128 specified schedule.

129 (25) "Design professional" means:

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

132 (b) an individual licensed as a professional engineer or professional land surveyor
133 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing
134 Act; or

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

137 (26) "Design professional procurement process" means the procurement process
138 described in Part 15, Design Professional Services.

139 (27) "Design professional services" means:

140 (a) professional services within the scope of the practice of architecture as defined in
141 Section [58-3a-102](#);

142 (b) professional engineering as defined in Section [58-22-102](#);

143 (c) master planning and programming services; or

144 (d) services within the scope of the practice of commercial interior design, as defined
145 in Section [58-86-102](#).

146 (28) "Design-build" means the procurement of design professional services and
147 construction by the use of a single contract.

148 (29) "Division" means the Division of Purchasing and General Services, created in
149 Section [63A-2-101](#).

150 (30) "Educational procurement unit" means:

151 (a) a school district;

- 152 (b) a public school, including a local school board or a charter school;
- 153 (c) the Utah Schools for the Deaf and the Blind;
- 154 (d) the Utah Education and Telehealth Network;
- 155 (e) an institution of higher education of the state described in Section [53B-1-102](#); or
- 156 (f) the State Board of Education.

157 (31) "Established catalogue price" means the price included in a catalogue, price list,
158 schedule, or other form that:

- 159 (a) is regularly maintained by a manufacturer or contractor;
- 160 (b) is published or otherwise available for inspection by customers; and
- 161 (c) states prices at which sales are currently or were last made to a significant number
162 of any category of buyers or buyers constituting the general buying public for the supplies or
163 services involved.

164 (32) (a) "Executive branch procurement unit" means a department, division, office,
165 bureau, agency, or other organization within the state executive branch.

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

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

170 (34) "Fixed price contract" means a contract that provides a price, for each
171 procurement item obtained under the contract, that is not subject to adjustment except to the
172 extent that:

- 173 (a) the contract provides, under circumstances specified in the contract, for an
174 adjustment in price that is not based on cost to the contractor; or
- 175 (b) an adjustment is required by law.

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

- 178 (a) is based on the consumer price index or another commercially acceptable index,
179 source, or formula; and
- 180 (b) is not based on a percentage of the cost to the contractor.

181 (36) "Grant" means an expenditure of public funds or other assistance, or an agreement
182 to expend public funds or other assistance, for a public purpose authorized by law, without

183 acquiring a procurement item in exchange.

184 (37) "Immaterial error":

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

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

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

189 (b) includes:

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

192 (ii) a typographical error;

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

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

195 (38) "Indefinite quantity contract" means a fixed price contract that:

196 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
197 procurement unit; and

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

199 (ii) provides a maximum purchase limit.

200 (39) "Independent procurement unit" means:

201 (a) (i) a legislative procurement unit;

202 (ii) a judicial branch procurement unit;

203 (iii) an educational procurement unit;

204 (iv) a local government procurement unit;

205 (v) a conservation district;

206 (vi) a local building authority;

207 (vii) a local district;

208 (viii) a public corporation;

209 (ix) a special service district; or

210 (x) the Utah Communications Authority, established in Section [63H-7a-201](#);

211 (b) the building board or the facilities division, but only to the extent of the
212 procurement authority provided under Title 63A, Chapter 5b, Administration of State
213 Facilities;

214 (c) the attorney general, but only to the extent of the procurement authority provided
215 under Title 67, Chapter 5, Attorney General;

216 (d) the Department of Transportation, but only to the extent of the procurement
217 authority provided under Title 72, Transportation Code; or

218 (e) any other executive branch department, division, office, or entity that has statutory
219 procurement authority outside this chapter, but only to the extent of that statutory procurement
220 authority.

221 (40) "Invitation for bids":

222 (a) means a document used to solicit:

223 (i) bids to provide a procurement item to a procurement unit; or

224 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and

225 (b) includes all documents attached to or incorporated by reference in a document
226 described in Subsection (40)(a).

227 (41) "Issuing procurement unit" means a procurement unit that:

228 (a) reviews a solicitation to verify that it is in proper form;

229 (b) causes the notice of a solicitation to be published; and

230 (c) negotiates and approves the terms and conditions of a contract.

231 (42) "Judicial procurement unit" means:

232 (a) the Utah Supreme Court;

233 (b) the Utah Court of Appeals;

234 (c) the Judicial Council;

235 (d) a state judicial district; or

236 (e) an office, committee, subcommittee, or other organization within the state judicial
237 branch.

238 (43) "Labor hour contract" is a contract under which:

239 (a) the supplies and materials are not provided by, or through, the contractor; and

240 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
241 profit for a specified number of labor hours or days.

242 (44) "Legislative procurement unit" means:

243 (a) the Legislature;

244 (b) the Senate;

245 (c) the House of Representatives;
246 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
247 (e) a committee, subcommittee, commission, or other organization:
248 (i) within the state legislative branch; or
249 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;
250 (B) the membership of which includes legislators; and
251 (C) for which the Office of Legislative Research and General Counsel provides staff
252 support.

253 (45) "Local building authority" means the same as that term is defined in Section
254 17D-2-102.

255 (46) "Local district" means the same as that term is defined in Section 17B-1-102.

256 (47) "Local government procurement unit" means:

257 (a) a county or municipality, and each office or agency of the county or municipality,
258 unless the county or municipality adopts its own procurement code by ordinance;

259 (b) a county or municipality that has adopted this entire chapter by ordinance, and each
260 office or agency of that county or municipality; or

261 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to
262 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each
263 office or agency of that county or municipality.

264 (48) "Multiple award contracts" means the award of a contract for an indefinite
265 quantity of a procurement item to more than one person.

266 (49) "Multiyear contract" means a contract that extends beyond a one-year period,
267 including a contract that permits renewal of the contract, without competition, beyond the first
268 year of the contract.

269 (50) "Municipality" means a city, town, or metro township.

270 (51) "Nonadopting local government procurement unit" means:

271 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,
272 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,
273 General Provisions Related to Protest or Appeal; and

274 (b) each office or agency of a county or municipality described in Subsection (51)(a).

275 (52) "Offeror" means a person who submits a proposal in response to a request for

276 proposals.

277 (53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
278 under the requirements of this chapter.

279 (54) "Procure" means to acquire a procurement item through a procurement.

280 (55) "Procurement" means the acquisition of a procurement item through an
281 expenditure of public funds, or an agreement to expend public funds, including an acquisition
282 through a public-private partnership.

283 (56) "Procurement item" means an item of personal property, a technology, a service,
284 or a construction project.

285 (57) "Procurement official" means:

286 (a) for a procurement unit other than an independent procurement unit, the chief
287 procurement officer;

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

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

292 (d) for a local government procurement unit:

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

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

295 (e) for a local district, the board of trustees of the local district or the board of trustees'
296 designee;

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

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

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

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

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

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

309 (l) for an institution of higher education described in Section 53B-2-101, the president
310 of the institution of higher education or the president's designee;

311 (m) for the State Board of Education, the State Board of Education or the State Board
312 of Education's designee;

313 (n) for the Utah Board of Higher Education, the Commissioner of Higher Education or
314 the designee of the Commissioner of Higher Education;

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

318 (p) (i) for the building board, and only to the extent of procurement activities of the
319 building board as an independent procurement unit under the procurement authority provided
320 under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building
321 board or the director's designee;

322 (ii) for the facilities division, and only to the extent of procurement activities of the
323 facilities division as an independent procurement unit under the procurement authority
324 provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the
325 facilities division or the director's designee;

326 (iii) for the attorney general, and only to the extent of procurement activities of the
327 attorney general as an independent procurement unit under the procurement authority provided
328 under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's
329 designee;

330 (iv) for the Department of Transportation created in Section 72-1-201, and only to the
331 extent of procurement activities of the Department of Transportation as an independent
332 procurement unit under the procurement authority provided under Title 72, Transportation
333 Code, the executive director of the Department of Transportation or the executive director's
334 designee; or

335 (v) for any other executive branch department, division, office, or entity that has
336 statutory procurement authority outside this chapter, and only to the extent of the procurement
337 activities of the department, division, office, or entity as an independent procurement unit

338 under the procurement authority provided outside this chapter for the department, division,
339 office, or entity, the chief executive officer of the department, division, office, or entity or the
340 chief executive officer's designee.

341 (58) "Procurement unit":

342 (a) means:

343 (i) a legislative procurement unit;

344 (ii) an executive branch procurement unit;

345 (iii) a judicial procurement unit;

346 (iv) an educational procurement unit;

347 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);

348 (vi) a local government procurement unit;

349 (vii) a local district;

350 (viii) a special service district;

351 (ix) a local building authority;

352 (x) a conservation district;

353 (xi) a public corporation; and

354 (b) does not include a political subdivision created under Title 11, Chapter 13,
355 Interlocal Cooperation Act.

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

358 (a) accounting;

359 (b) administrative law judge service;

360 (c) architecture;

361 (d) construction design and management;

362 (e) engineering;

363 (f) financial services;

364 (g) information technology;

365 (h) the law;

366 (i) medicine;

367 (j) psychiatry; or

368 (k) underwriting.

369 (60) "Protest officer" means:

370 (a) for the division or an independent procurement unit:

371 (i) the procurement official;

372 (ii) the procurement official's designee who is an employee of the procurement unit; or

373 (iii) a person designated by rule made by the rulemaking authority; or

374 (b) for a procurement unit other than an independent procurement unit, the chief
375 procurement officer or the chief procurement officer's designee who is an employee of the
376 division.

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

378 (62) "Public entity" means the state or any other government entity within the state that
379 expends public funds.

380 (63) "Public facility" means a building, structure, infrastructure, improvement, or other
381 facility of a public entity.

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

384 (65) "Public transit district" means a public transit district organized under Title 17B,
385 Chapter 2a, Part 8, Public Transit District Act.

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

391 (67) "Qualified vendor" means a vendor who:

392 (a) is responsible; and

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

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

398 (69) "Request for information" means a nonbinding process through which a
399 procurement unit requests information relating to a procurement item.

400 (70) "Request for proposals" means a document used to solicit proposals to provide a
401 procurement item to a procurement unit, including all other documents that are attached to that
402 document or incorporated in that document by reference.

403 (71) "Request for proposals process" means the procurement process described in Part
404 7, Request for Proposals.

405 (72) "Request for statement of qualifications" means a document used to solicit
406 information about the qualifications of a person interested in responding to a potential
407 procurement, including all other documents attached to that document or incorporated in that
408 document by reference.

409 (73) "Requirements contract" means a contract:

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

412 (b) that:

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

414 (ii) provides a maximum purchase limit.

415 (74) "Responsible" means being capable, in all respects, of:

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

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

419 (75) "Responsive" means conforming in all material respects to the requirements of a
420 solicitation.

421 (76) "Rule" includes a policy or regulation adopted by the rulemaking authority, if
422 adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions
423 that govern the applicable procurement unit.

424 (77) "Rulemaking authority" means:

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

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

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

429 (A) for the building board or the facilities division, the building board;

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

- 431 (C) for the Department of Transportation created in Section [72-1-201](#), the executive
432 director of the Department of Transportation; and
- 433 (D) for any other executive branch department, division, office, or entity that has
434 statutory procurement authority outside this chapter, the governing authority of the department,
435 division, office, or entity; and
- 436 (ii) for each other executive branch procurement unit, the board;
- 437 (d) for a local government procurement unit:
- 438 (i) the governing body of the local government unit; or
439 (ii) an individual or body designated by the local government procurement unit;
- 440 (e) for a school district or a public school, [~~the board, except to the extent of a school~~
441 ~~district's own nonadministrative rules that do not conflict with the provisions of this chapter]~~
442 the State Board of Education;
- 443 (f) for a state institution of higher education, the Utah Board of Higher Education;
- 444 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the
445 State Board of Education;
- 446 (h) for a public transit district, the chief executive of the public transit district;
- 447 (i) for a local district other than a public transit district or for a special service district,
448 the board, except to the extent that the board of trustees of the local district or the governing
449 body of the special service district makes its own rules:
- 450 (i) with respect to a subject addressed by board rules; or
451 (ii) that are in addition to board rules;
- 452 (j) for the Utah Educational Savings Plan, created in Section [53B-8a-103](#), the Utah
453 Board of Higher Education;
- 454 (k) for the School and Institutional Trust Lands Administration, created in Section
455 [53C-1-201](#), the School and Institutional Trust Lands Board of Trustees;
- 456 (l) for the School and Institutional Trust Fund Office, created in Section [53D-1-201](#),
457 the School and Institutional Trust Fund Board of Trustees;
- 458 (m) for the Utah Communications Authority, established in Section [63H-7a-201](#), the
459 Utah Communications Authority board, created in Section [63H-7a-203](#); or
- 460 (n) for any other procurement unit, the board.
- 461 (78) "Service":

462 (a) means labor, effort, or work to produce a result that is beneficial to a procurement
463 unit;

464 (b) includes a professional service; and

465 (c) does not include labor, effort, or work provided under an employment agreement or
466 a collective bargaining agreement.

467 (79) "Small purchase process" means the procurement process described in Section
468 [63G-6a-506](#).

469 (80) "Sole source contract" means a contract resulting from a sole source procurement.

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

473 (82) "Solicitation" means an invitation for bids, request for proposals, or request for
474 statement of qualifications.

475 (83) "Solicitation response" means:

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

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

478 (c) a statement of qualifications submitted in response to a request for statement of
479 qualifications.

480 (84) "Special service district" means the same as that term is defined in Section
481 [17D-1-102](#).

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

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

486 (b) preparing a procurement item for delivery.

487 (86) "Standard procurement process" means:

488 (a) the bidding process;

489 (b) the request for proposals process;

490 (c) the approved vendor list process;

491 (d) the small purchase process; or

492 (e) the design professional procurement process.

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

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

497 (89) "Subcontractor":

498 (a) means a person under contract to perform part of a contractual obligation under the
499 control of the contractor, whether the person's contract is with the contractor directly or with
500 another person who is under contract to perform part of a contractual obligation under the
501 control of the contractor; and

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

504 (90) "Technology" means the same as "information technology," as defined in Section
505 [63A-16-102](#).

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

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

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

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

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

513 (93) "Transitional costs":

514 (a) means the costs of changing:

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

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

518 (b) includes:

519 (i) training costs;

520 (ii) conversion costs;

521 (iii) compatibility costs;

522 (iv) costs associated with system downtime;

523 (v) disruption of service costs;

- 524 (vi) staff time necessary to implement the change;
- 525 (vii) installation costs; and
- 526 (viii) ancillary software, hardware, equipment, or construction costs; and
- 527 (c) does not include:
- 528 (i) the costs of preparing for or engaging in a procurement process; or
- 529 (ii) contract negotiation or drafting costs.

530 (94) "Vendor":
531 (a) means a person who is seeking to enter into a contract with a procurement unit to
532 provide a procurement item; and

- 533 (b) includes:
- 534 (i) a bidder;
- 535 (ii) an offeror;
- 536 (iii) an approved vendor;
- 537 (iv) a design professional; and
- 538 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).

539 Section 2. Section **63G-6a-106** is amended to read:

540 **63G-6a-106. Independent procurement units.**

541 (1) An independent procurement unit may, without the supervision, interference,
542 oversight, control, or involvement of the division or the chief procurement officer, but in
543 accordance with the requirements of this chapter:

- 544 (a) engage in a standard procurement process;
- 545 (b) acquire a procurement item under an exception, as provided in this chapter, to the
546 requirement to use a standard procurement process; or
- 547 (c) otherwise engage in an act authorized or required by this chapter.

548 (2) Notwithstanding Subsection (1)[;]:

549 (a) an independent procurement unit may agree in writing with the division to extend
550 the authority of the division or the chief procurement officer to the procurement unit, as
551 provided in the agreement[-]; and

552 (b) an independent procurement unit that is a school district or public school may agree
553 in writing with the State Board of Education to extend the authority of the State Board of
554 Education to the school district or public school, as provided in the agreement.

555 (3) With respect to a procurement or contract over which an independent procurement
556 unit's procurement official has authority, the procurement official may:

557 (a) manage and supervise the procurement to ensure to the extent practicable that
558 taxpayers receive the best value;

559 (b) prepare and issue standard specifications for procurement items;

560 (c) review contracts, coordinate contract compliance, conduct contract audits, and
561 approve change orders;

562 (d) delegate duties and authority to an employee of the procurement unit, as the
563 independent procurement unit's procurement official considers appropriate;

564 (e) for the procurement official of an executive branch procurement unit that is an
565 independent procurement unit, coordinate with the Division of Technology Services, created in
566 Section [63A-16-103](#), with respect to the procurement unit's procurement of information
567 technology services;

568 (f) correct, amend, or cancel a procurement at any stage of the procurement process if
569 the procurement is out of compliance with this chapter or a rule adopted by the rulemaking
570 authority;

571 (g) attempt to resolve a contract dispute in coordination with the legal counsel of the
572 independent procurement unit; and

573 (h) at any time during the term of a contract awarded by the independent procurement
574 unit, correct or amend a contract to bring it into compliance or cancel the contract:

575 (i) if the procurement official determines that correcting, amending, or canceling the
576 contract is in the best interest of the procurement unit; and

577 (ii) after consulting with, as applicable, the attorney general's office or the procurement
578 unit's legal counsel.

579 (4) The attorney general may, in accordance with the provisions of this chapter, but
580 without involvement by the division or the chief procurement officer:

581 (a) retain outside counsel, subject to Section [67-5-33](#) if the attorney general retains
582 outside counsel under a contingent fee contract, as defined in that section; or

583 (b) procure litigation support services, including retaining an expert witness.

584 (5) An independent procurement unit that is not represented by the attorney general's
585 office may, in accordance with the provisions of this chapter, but without involvement by the

586 division or the chief procurement officer:

587 (a) retain outside counsel; or

588 (b) procure litigation support services, including retaining an expert witness.

589 (6) The state auditor's office may, in accordance with the provisions of this chapter, but

590 without involvement by the division or the chief procurement officer, procure audit services.

591 (7) The state treasurer may, in accordance with the provisions of this chapter, but

592 without involvement by the division or the chief procurement officer, procure:

593 (a) deposit services; and

594 (b) services related to issuing bonds.

595 Section 3. Section **63G-6a-2105** is amended to read:

596 **63G-6a-2105. Cooperative procurements -- Contracts with federal government --**

597 **Regional solicitations.**

598 (1) The chief procurement officer may, in accordance with the requirements of this

599 chapter, enter into a cooperative procurement, and a contract that is awarded as a result of a

600 cooperative procurement, with:

601 (a) another state;

602 (b) a cooperative purchasing organization; or

603 (c) a public entity inside or outside the state.

604 (2) A public entity, nonprofit organization, or, as permitted under federal law, an

605 agency of the federal government, may obtain a procurement item from a state cooperative

606 contract or a contract awarded by the chief procurement officer under Subsection (1), without

607 signing a participating addendum if the solicitation issued by the chief procurement officer to

608 obtain the contract includes a statement indicating that the resulting contract will be issued for

609 the benefit of public entities and, as applicable, nonprofit organizations and agencies of the

610 federal government.

611 (3) Except as provided in Section **63G-6a-506**, or as otherwise provided in this chapter,

612 an executive branch procurement unit may not obtain a procurement item from a source other

613 than a state cooperative contract or a contract awarded by the chief procurement officer under

614 Subsection (1), if the procurement item is available under a state cooperative contract or a

615 contract awarded by the chief procurement officer under Subsection (1).

616 (4) A Utah procurement unit may:

617 (a) contract with the federal government without going through a standard procurement
618 process or an exception to a standard procurement process, described in Part 8, Exceptions to
619 Procurement Requirements, if the procurement item obtained under the contract is provided:

620 (i) directly by the federal government and not by a person contracting with the federal
621 government; or

622 (ii) by a person under contract with the federal government that obtained the contract in
623 a manner that substantially complies with the provisions of this chapter;

624 (b) participate in, sponsor, conduct, or administer a cooperative procurement with
625 another Utah procurement unit or another public entity in Utah, if:

626 (i) each party unit involved in the cooperative procurement enters into an agreement
627 describing the rights and duties of each party;

628 (ii) the procurement is conducted, and the contract awarded, in accordance with the
629 requirements of this chapter;

630 (iii) the solicitation:

631 (A) clearly indicates that the procurement is a cooperative procurement; and

632 (B) identifies each party that may purchase under the resulting contract; and

633 (iv) each party involved in the cooperative procurement signs a participating addendum
634 describing its rights and obligations in relation to the resulting contract; or

635 (c) purchase under, or otherwise participate in, an agreement or contract of a
636 cooperative purchasing organization, if:

637 (i) each party involved in the cooperative procurement enters into an agreement
638 describing the rights and duties of each party;

639 (ii) the procurement was conducted in accordance with the requirements of this
640 chapter;

641 (iii) the solicitation:

642 (A) clearly indicates that the procurement is a cooperative procurement; and

643 (B) identifies each party that may purchase under the resulting contract; and

644 (iv) each party involved in the cooperative procurement signs a participating addendum
645 describing its rights and obligations in relation to the resulting contract.

646 (5) A procurement unit may not obtain a procurement item under a contract that results
647 from a cooperative procurement described in Subsection (4), unless the procurement unit:

648 (a) is identified under Subsection (4)(b)(iii)(B) or (4)(c)(iii)(B); and

649 (b) signs a participating addendum to the contract as required by this section.

650 (6) A procurement unit, other than a legislative procurement unit or a judicial
651 procurement unit, may not obtain a procurement item under a contract held by the United
652 States General Services Administration, unless, based upon documentation provided by the
653 procurement unit, the Director of the State Division of Purchasing and General Services
654 determines in writing that the United States General Services Administration procured the
655 contract in a manner that substantially complies with the provisions of this chapter.

656 (7) (a) As used in this Subsection (7), "regional solicitation" means a solicitation issued
657 by the chief procurement officer for the procurement of a procurement item within a specified
658 geographical region of the state.

659 (b) In addition to any other duty or authority under this section, the chief procurement
660 officer shall:

661 (i) after considering board recommendations, develop a plan for issuing regional
662 solicitations; and

663 (ii) after developing a plan, issue regional solicitations for procurement items in
664 accordance with the plan and this chapter.

665 (c) A plan under Subsection (7)(b) shall:

666 (i) define the proposed regional boundaries for regional solicitations;

667 (ii) specify the types of procurement items for which a regional solicitation may be
668 issued; and

669 (iii) identify the regional solicitations that the chief procurement officer plans to issue.

670 (d) A regional solicitation shall require that a person responding to the solicitation offer
671 similar warranties and submit to similar obligations as are standard under other state
672 cooperative contracts.

673 (e) Except as authorized by the chief procurement officer, a procurement item that is
674 available under a state cooperative contract may not be provided under a contract pursuant to a
675 regional solicitation until after the expiration of the state cooperative contract.

676 (8) The State Board of Education may, in accordance with the requirements of this
677 chapter, enter into a cooperative procurement available to school districts and public schools
678 without complying with Subsection (4).

679 Section 4. Section **63G-6a-2501** is enacted to read:

680 **Part 25. Education Procurement Unit False Claims**

681 **63G-6a-2501. Definitions.**

682 As used in this part:

683 (1) (a) "Claim" means any request or demand, whether under a contract or otherwise,
684 for money or property and whether an educational procurement unit has title to the money or
685 property, that:

686 (i) is presented to an officer, employee, or agent of the educational procurement unit;

687 or

688 (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be
689 spent or used on the educational procurement unit's behalf or to advance an educational
690 procurement unit's program or interest, and if the educational procurement unit:

691 (A) provides or has provided any portion of the money or property requested or
692 demanded; or

693 (B) will reimburse such contractor, grantee, or other recipient for any portion of the
694 money or property which is requested or demanded.

695 (b) "Claim" does not include a request or demand for money or property that an
696 educational procurement unit has paid to an individual as compensation for employment or as
697 an income subsidy with no restrictions on that individual's use of the money or property.

698 (2) "Knowing" and "knowingly" means that a person, with respect to information:

699 (a) has actual knowledge of the information; and

700 (b) acts in deliberate ignorance of the truth or falsity of the information.

701 (3) "Material" means having a natural tendency to influence, or be capable of
702 influencing, the payment or receipt of money or property.

703 (4) (a) "Obligation" means an established duty, arising from an express or implied
704 contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar
705 relationship, from statute or regulation, or from the retention of any overpayment.

706 (b) "Obligation" includes a fixed duty.

707 Section 5. Section **63G-6a-2502** is enacted to read:

708 **63G-6a-2502. Liability for certain acts.**

709 (1) A person is liable to an educational procurement unit for a civil penalty of not less

710 than \$5,000 and not more than \$10,000, plus three times the amount of damages which the
711 educational procurement unit sustains, who:

712 (a) knowingly presents, or causes to be presented, a false or fraudulent claim for
713 payment or approval;

714 (b) knowingly makes, uses, or causes to be made or used, a false record or statement
715 material to a false or fraudulent claim;

716 (c) conspires to commit a violation of Subsection (1)(a), (b), (d), (e), or (f);

717 (d) has possession, custody, or control of property or money used, or to be used, by the
718 educational procurement unit and knowingly delivers, or causes to be delivered, less than all of
719 that money or property;

720 (e) is authorized to make or deliver a document certifying receipt of property used, or
721 to be used, by the educational procurement unit and, intending to defraud the educational
722 procurement unit, makes or delivers the receipt without completely knowing that the
723 information on the receipt is true; or

724 (f) knowingly makes, uses, or causes to be made or used, a false record or statement
725 material to an obligation to pay or transmit money or property to the educational procurement
726 unit, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to
727 pay or transmit money or property to the educational procurement unit.

728 (2) Proof of an action described in Subsection (1) does not require proof of specific
729 intent to defraud.

730 (3) A court may assess not less than two times the amount of damages that the
731 educational procurement unit sustains because of a violation of this section, if the court finds
732 that:

733 (a) the person committing the violation of this section furnished officials of the state
734 responsible for investigating false claims violations with all information known to such person
735 about the violation within 30 days after the date on which the defendant first obtained the
736 information; and

737 (b) at the time the person furnished the educational procurement unit with the
738 information about the violation, no criminal prosecution, civil action, or administrative action
739 had commenced under this part with respect to such violation, and the person did not have
740 actual knowledge of the existence of an investigation into such violation.

741 (4) A person who violates this section is liable to the educational procurement unit for
742 the costs of a civil action brought to recover any penalty or damages.

743 (5) Any information furnished pursuant to Subsection (3) is exempt from disclosure
744 under Title 63G, Chapter 2, Government Records Access and Management Act.

745 Section 6. Section **63G-6a-2503** is enacted to read:

746 **63G-6a-2503. Responsibilities of the attorney general -- Actions by private**
747 **persons.**

748 (1) (a) The attorney general shall diligently investigate a violation under this part.

749 (b) If the attorney general finds that a person violates this part, the attorney general may
750 bring a civil action under this section against the person.

751 (2) (a) A person may bring a civil action for a violation of this part for the person and
752 for the Procurement Unit.

753 (b) The action described in Subsection (2)(a):

754 (i) shall be brought in the name of the educational procurement unit; and

755 (ii) may be dismissed only if the court and the attorney general give written consent to
756 the dismissal and their reasons for consenting.

757 (3) (a) A person who brings a civil action as described in Subsection (2) shall serve on
758 the educational procurement unit in accordance with Rule 4 of the Utah Rules of Civil

759 Procedure:

760 (i) a copy of the complaint; and

761 (ii) written disclosure of substantially all material evidence and information the person
762 possesses.

763 (b) The complaint shall:

764 (i) be filed in camera;

765 (ii) remain under seal for at least 60 days; and

766 (iii) not be served on the defendant until the court so orders.

767 (c) The educational procurement unit may elect to intervene and proceed with the
768 action within 60 days after the educational procurement unit receives both the complaint and
769 the material evidence and information.

770 (4) (a) An educational procurement unit may, for good cause shown, move the court
771 for extensions of the time during which the complaint remains under seal under Subsection (3).

772 (b) A motion described in Subsection (4)(a) may be supported by affidavits or other
773 submissions in camera.

774 (c) The defendant shall not be required to respond to any complaint filed under this
775 section until 20 days after the complaint is unsealed and served upon the defendant in
776 accordance with Rule 4 of the Utah Rules of Civil Procedure.

777 (5) (a) Before the expiration of the 60 day period described in Subsection (3)(b), or any
778 extensions an educational procurement unit obtains as described in Subsection (4)(a), the
779 educational procurement unit shall:

780 (i) proceed with the action; or

781 (ii) notify the court that the educational procurement unit declines to take over the
782 action.

783 (b) If the educational procurement unit declines to take over the action, the person who
784 initiates the action may conduct the action.

785 (6) When a person brings an action under this section, no person other than the
786 educational procurement unit may intervene or bring a related action based on the facts
787 underlying the pending action.

788 Section 7. Section **63G-6a-2504** is enacted to read:

789 **63G-6a-2504. Rights of the parties to qui tam actions.**

790 (1) (a) If an educational procurement unit proceeds with an action as described in
791 Section [63G-6a-2503](#), the educational procurement unit:

792 (i) has the primary responsibility for prosecuting the action; and

793 (ii) is not bound by an act of the person who initiates the action.

794 (b) The person who initiates the action may continue as a party to the action, subject to
795 the limitations of Subsection (2).

796 (2) (a) The educational procurement unit may dismiss the action notwithstanding the
797 objections of the person initiating the action if the educational procurement unit notifies the
798 person who initiates the action:

799 (i) that the educational procurement unit filed the action; and

800 (ii) the court has provided the person with an opportunity for a hearing on the motion.

801 (b) (i) The educational procurement unit may settle the action with the defendant

802 notwithstanding the objections of the person initiating the action if the court determines, after a

803 hearing, that the proposed settlement is fair, adequate, and reasonable under all the
804 circumstances.

805 (ii) Upon a showing of good cause, a hearing may be held in camera.

806 (c) Upon a showing by the educational procurement unit that unrestricted participation
807 during the course of the litigation by the person initiating the action would interfere with or
808 unduly delay the educational procurement unit's prosecution of the case, or would be
809 repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose
810 limitations on the person's participation, including:

811 (i) limiting the number of witnesses the person may call;

812 (ii) limiting the length of the testimony of such witnesses;

813 (iii) limiting the person's cross-examination of witnesses; or

814 (iv) otherwise limiting the participation by the person in the litigation.

815 (d) Upon a showing by the defendant that unrestricted participation during the course
816 of the litigation by the person initiating the action would be for purposes of harassment or
817 would cause the defendant undue burden or unnecessary expense, the court may limit the
818 participation by the person in the litigation.

819 (3) If the educational procurement unit requests, a person who conducts the action
820 under Subsection [63G-6a-2503\(4\)\(b\)](#) shall:

821 (a) serve the educational procurement unit with copies of all pleadings filed in the
822 action; and

823 (b) supply the educational procurement unit with copies of all deposition transcripts at
824 the educational procurement unit's expense. When a person proceeds with the action, the court,
825 without limiting the status and rights of the person initiating the action, may nevertheless
826 permit the Procurement Unit to intervene at a later date upon a showing of good cause.

827 (4) (a) Regardless of whether the educational procurement unit proceeds with the
828 action, upon a showing by the educational procurement unit that an action of discovery by the
829 person who initiates the action interferes with the educational procurement unit's investigation
830 or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the
831 discovery for not more than 60 days.

832 (b) The showing described in Subsection (4)(a) shall be conducted in camera.

833 (c) The court may extend the stay of discovery described in Subsection (4)(a) upon a

834 further showing in camera that:

835 (i) the educational procurement unit has pursued the criminal or civil investigation or
836 proceedings with reasonable diligence; and

837 (ii) any discovery in the civil action initiated under this part will interfere with the
838 ongoing criminal or civil investigation or proceedings.

839 (5) (a) Notwithstanding Section 63G-6a-2503, the educational procurement unit may
840 pursue the educational procurement unit's claim through any alternate remedy available to the
841 educational procurement unit, including any administrative proceeding to determine a civil
842 penalty.

843 (b) If an educational procurement unit pursues an alternate remedy in a proceeding as
844 described in Subsection (5)(a), the person initiating an action under this part has the same
845 rights in the proceeding as the person has under an action under this part.

846 (c) A final finding of fact or conclusion of law in a proceeding described in Subsection
847 (5)(b) is conclusive on all parties to an action under this part.

848 (d) For purposes of Subsection (5)(c), a finding of fact or conclusion of law is final if:

849 (i) the finding of fact or conclusion of law has been finally determined on appeal to the
850 appropriate court of the state;

851 (ii) if the time for filing an appeal of the finding of fact or conclusion of law has
852 expired; or

853 (iii) if the finding of fact or conclusion of law is not subject to judicial review.

854 Section 8. Section **63G-6a-2505** is enacted to read:

855 **63G-6a-2505. Award to qui tam plaintiff.**

856 (1) If an educational procurement unit proceeds with an action as described in
857 Subsection 63G-6a-2503(4), the person who initiates the action is entitled to, subject to
858 Subsection (2), at least 15% but not more than 25% of the proceeds of the action or settlement
859 of the claim, in proportion to the contributions of the person who initiates the action to the
860 prosecution of the action.

861 (2) Notwithstanding Subsection (1), the court may not award more than 10% of the
862 proceeds of an action or settlement of a claim to the person who initiates an action under this
863 part if the court finds that the action is based primarily on disclosures of specific information:

864 (a) relating to allegations or transactions in a:

865 (i) criminal, civil, or administrative hearing; or
866 (ii) legislative, administrative, or state auditor:
867 (A) report;
868 (B) hearing;
869 (C) audit; or
870 (D) investigation; or
871 (b) from the news media.
872 (c) The information described in Subsection (2)(a) or (b) does not include information
873 the person who initiates the action provides.
874 (3) The court shall award to a person who receives a payment under Subsection (1) or
875 (2):
876 (a) reasonable expenses, if the court finds the expenses were necessary; and
877 (b) reasonable attorney fees and costs.
878 (4) (a) If an educational procurement unit declines to take over an action as described
879 in Subsection [63G-6a-2503\(4\)](#), the person who initiates the action or settles the claim is
880 entitled to an amount the court determines is reasonable for collecting the civil penalty and
881 damages.
882 (b) The amount described in Subsection (4)(a):
883 (i) shall not be less than 25% and not more than 30% of the proceeds of the action or
884 settlement; and
885 (ii) shall be paid out of the proceeds described in Subsection (4)(b)(i).
886 (5) The court shall award to a person who receives a payment under Subsection (4):
887 (a) reasonable expenses, if the court finds the expenses were necessary; and
888 (b) reasonable attorney fees and costs.
889 (6) (a) Whether the educational procurement unit proceeds with an action under this
890 part, if the court finds that the person who initiates the action planned or initiated the violation
891 of this part upon which the action was brought, the court may reduce the share of the proceeds
892 of the action which the person would otherwise receive under this section.
893 (b) In reducing the share of proceeds as described in Subsection (6)(a), the court shall
894 take into account the role of the person in advancing the case to litigation and any relevant
895 circumstances pertaining to the violation.

896 (c) If the person who initiates the action is convicted of criminal conduct arising from
897 the person's in the violation of this part:

898 (i) the court shall dismiss the person from the civil action; and

899 (ii) the person may not receive any share of the proceeds of the action.

900 (d) A dismissal described in Subsection (6)(c) may not prejudice the right of the
901 educational procurement unit to continue the action, represented by the attorney general.

902 (7) If an educational procurement unit declines to take over an action as described in
903 Subsection [63G-6a-2503](#)(4), and the person who initiates the action conducts the action, the
904 court may award to the defendant reasonable attorney fees and costs if:

905 (a) the defendant is the prevailing party in the action; and

906 (b) the court finds that the claim of the person who initiates the action was clearly
907 frivolous, clearly vexatious, or brought primarily for purposes of harassment.

908 (8) An educational procurement unit is not liable for expenses that a person who
909 initiates an action under this part incurs in bringing an action under this part.

910 Section 9. Section **63G-6a-2506** is enacted to read:

911 **63G-6a-2506. Certain actions barred.**

912 (1) A court of this state has no jurisdiction over an action brought under Section
913 [63G-6a-2503](#):

914 (a) by a former or present member of the armed forces against a member of the armed
915 forces arising out of the person's service in the armed forces; or

916 (b) against a member of the Legislature, a member of the judiciary, or a senior
917 executive branch official if the action is based on evidence or information known to the
918 educational procurement unit when the action was initiated.

919 (2) A person may not bring an action under Section [63G-6a-2503](#) that is based on
920 allegations or transactions that are the subject of a civil suit or an administrative civil money
921 penalty proceeding in which the educational procurement unit is already a party.

922 (3) (a) As used in this Subsection (3), "original source" means an person who:

923 (i) prior to a public disclosure described in Subsection (3)(b), has voluntarily disclosed
924 to the educational procurement unit the information on which allegations or transactions in a
925 claim are based; or

926 (ii) (A) has knowledge that is independent of and materially adds to the publicly

927 disclosed allegations or transactions; and

928 (B) voluntarily provides the information to the educational procurement unit before
929 filing an action under this section.

930 (b) The court shall dismiss an action or claim under this section, unless opposed by the
931 educational procurement unit, if substantially the same allegations or transactions as alleged in
932 the action or claim were publicly disclosed:

933 (i) in a criminal, civil, or administrative hearing in which the educational procurement
934 unit or the educational procurement unit's agent is a party;

935 (ii) in a legislative, state auditor, or other state or local:

936 (A) report;

937 (B) hearing;

938 (C) audit; or

939 (D) investigation; or

940 (iii) in the news media, unless:

941 (A) the action is brought by the attorney general; or

942 (B) the person who initiates the action is an original source of the information.

943 Section 10. Section **63G-6a-2507** is enacted to read:

944 **63G-6a-2507. Relief from retaliatory actions.**

945 (1) As used in this section:

946 (a) "Employee" means an employee, contractor, or agent of an educational procurement
947 unit.

948 (b) "Retaliation" means the discharge, demotion, suspension, threatening, harassment,
949 or discrimination in the terms and conditions of an employee's employment.

950 (2) An employee is entitled to all relief necessary to make the employee whole for
951 retaliation against the employee for the employee's or another person's:

952 (a) lawful acts in furtherance of an action under this part; or

953 (b) efforts to stop a violation of this part.

954 (3) Relief described in Subsection (2) includes:

955 (a) reinstatement with the same seniority status that employee would have had but for
956 the retaliation;

957 (b) two times the amount of back pay and interest on the back pay; and

958 (c) compensation for any special damages sustained as a result of the retaliation,
959 including litigation costs and reasonable attorney fees.

960 (4) An action under this section may be brought in the appropriate district court of this
961 state for the relief provided in this section.