



# House of Representatives

**File No. 674**

General Assembly

---

February Session, 2004 **(Reprint of File No. 408)**

Substitute House Bill No. 5433  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
April 26, 2004

**AN ACT REVISING PREQUALIFICATION REQUIREMENTS FOR  
STATE CONSTRUCTION CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4b-91 of the general statutes, as amended by  
2 section 1 of public act 03-215, is repealed and the following is  
3 substituted in lieu thereof (*Effective October 1, 2004*):

4 (a) Every contract for the construction, reconstruction, alteration,  
5 remodeling, repair or demolition of any public building for work by  
6 the state, which is estimated to cost more than five hundred thousand  
7 dollars, except (1) a contract awarded by the Commissioner of Public  
8 Works for (A) a community court project, as defined in subsection (j) of  
9 section 4b-55, (B) the Connecticut Juvenile Training School project, as  
10 defined in subsection (k) of section 4b-55, (C) the downtown Hartford  
11 higher education center project, as defined in subsection (l) of section  
12 4b-55, (D) The University of Connecticut library project, as defined in  
13 subsection (d) of section 4b-55, (E) a correctional facility project, as  
14 defined in subsection (m) of section 4b-55, (F) a juvenile detention  
15 center project, as defined in subsection (n) of section 4b-55, or (G) a

16 student residential facility for the Connecticut State University system  
17 that is a priority higher education facility project, as defined in  
18 subsection (f) of section 4b-55, or (2) a project, as defined in  
19 subdivision (16) of section 10a-109c, undertaken and controlled by The  
20 University of Connecticut in accordance with section 10a-109n, shall be  
21 awarded to the lowest responsible and qualified general bidder who is  
22 prequalified pursuant to section 3 of [this act] public act 03-215, as  
23 amended by this act, on the basis of competitive bids in accordance  
24 with the procedures set forth in this chapter, [and section 8 of this act,]  
25 after the Commissioner of Public Works or, in the case of a contract for  
26 the construction of or work on a building under the supervision and  
27 control of the Joint Committee on Legislative Management of the  
28 General Assembly, the joint committee or, in the case of a contract for  
29 the construction of or work on a building under the supervision and  
30 control of one of the constituent units of the state system of higher  
31 education, the constituent unit, has invited such bids by  
32 advertisements inserted at least once in one or more newspapers  
33 having a circulation in each county in the state. The Commissioner of  
34 Public Works, the joint committee or the constituent unit, as the case  
35 may be, shall indicate the prequalification classification [and aggregate  
36 work capacity rating] required for the contract in such advertisement.  
37 As used in this section, "prequalification classification" means the  
38 prequalification classifications established by the Commissioner of  
39 Administrative Services pursuant to section 3 of [this act] public act 03-  
40 215, as amended by this act. [and "aggregate work capacity rating"  
41 means the aggregate work capacity ratings established by the  
42 Commissioner of Administrative Services pursuant to section 3 of this  
43 act.]

44 (b) The Commissioner of Public Works, the joint committee or the  
45 constituent unit, as the case may be, shall determine the manner of  
46 submission and the conditions and requirements of such bids, and the  
47 time within which the bids shall be submitted, consistent with the  
48 provisions of sections 4b-91 to 4b-96, inclusive, as amended. Such  
49 award shall be made within sixty days after the opening of such bids.

50 If the general bidder selected as the general contractor fails to perform  
51 the general contractor's agreement to execute a contract in accordance  
52 with the terms of the general contractor's general bid and furnish a  
53 performance bond and also a labor and materials or payment bond to  
54 the amount specified in the general bid form, an award shall be made  
55 to the next lowest responsible and qualified general bidder. No  
56 employee of the Department of Public Works, the joint committee or a  
57 constituent unit with decision-making authority concerning the award  
58 of a contract and no public official, as defined in section 1-79, may  
59 communicate with any bidder prior to the award of the contract if the  
60 communication results in the bidder receiving information about the  
61 contract that is not available to other bidders, except that if the lowest  
62 responsible and qualified bidder's price submitted is in excess of funds  
63 available to make an award, the Commissioner of Public Works, the  
64 Joint Committee on Legislative Management or the constituent unit, as  
65 the case may be, may negotiate with such bidder and award the  
66 contract on the basis of the funds available, without change in the  
67 contract specifications, plans and other requirements. If the award of a  
68 contract on said basis is refused by such bidder, the Commissioner of  
69 Public Works, the Joint Committee on Legislative Management or the  
70 constituent unit, as the case may be, may negotiate with other  
71 contractors who submitted bids in ascending order of bid prices  
72 without change in the contract, specifications, plans and other  
73 requirements. In the event of negotiation with general bidders as  
74 provided in this section, the general bidder involved may negotiate  
75 with subcontractors on the same basis, provided such general bidder  
76 shall negotiate only with subcontractors named on such general  
77 bidder's general bid form.

78 (c) On and after October 1, 2004, no person may bid on a contract,  
79 except for a project described in subdivision (2) of subsection (a) of this  
80 section, for the construction, reconstruction, alteration, remodeling,  
81 repair or demolition of any public building for work by the state or a  
82 municipality, which is estimated to cost more than five hundred  
83 thousand dollars and is paid for, in whole or in part, with state funds,

84 unless the person is prequalified in accordance with section 3 of [this  
85 act] public act 03-215, as amended by this act.

86 (d) On and after October 1, 2004, each bid submitted for a contract  
87 described in subsection (c) of this section shall include a copy of a  
88 prequalification [statement] certificate issued by the Commissioner of  
89 Administrative Services. [showing that the bidder has the  
90 prequalification classification and aggregate work capacity ratings  
91 required under such contract.] The bid shall also be accompanied by  
92 an update statement in such form as the Commissioner of  
93 Administrative Services prescribes. The form for such update  
94 statement shall provide space for information regarding all projects  
95 completed by the bidder since the date the bidder's prequalification  
96 certificate was issued or renewed, all projects the bidder currently has  
97 under contract, including the percentage of work on such projects not  
98 completed, the names and qualifications of the personnel who will  
99 have supervisory responsibility for the performance of the contract,  
100 any significant changes in the bidder's financial position or [business  
101 organization] corporate structure since the date the certificate was  
102 issued or renewed, any change in the contractor's qualification status  
103 as determined by the provisions of subdivision (6) of subsection (c) of  
104 section 3 of public act 03-215, as amended by this act, and such other  
105 relevant information as the Commissioner of Administrative Services  
106 prescribes. Any bid submitted without a copy of the prequalification  
107 certificate and an update statement shall be invalid.

108 (e) Any person who bids on a contract described in subsection (c) of  
109 this section shall certify under penalty of false statement at the  
110 conclusion of the bidding process that the information in the bid is  
111 true, that there has been no substantial change in the bidder's financial  
112 position or corporate structure since the bidder's most recent  
113 prequalification certificate was issued or renewed, other than those  
114 changes noted in the update statement, and that the bid was made  
115 without fraud or collusion with any person.

116 (f) Any person who receives information from a state employee or

117 public official that is not available to the general public concerning any  
118 construction, reconstruction, alteration, remodeling, repair or  
119 demolition project on a public building prior to the date that an  
120 advertisement for bids on the project is published shall be disqualified  
121 from bidding on the project.

122 (g) Notwithstanding the provisions of this chapter regarding  
123 competitive bidding procedures, the commissioner may select and  
124 interview at least three responsible and qualified general contractors  
125 who are prequalified pursuant to section 3 of [this act] public act 03-  
126 215, as amended by this act, and [selected by the award panel  
127 established in subdivision (4) of section 4b-24] submit the three  
128 selected contractors to the construction services award panels process  
129 described in section 8 of public act 03-215, as amended by this act and  
130 any regulation adopted by the commissioner. The commissioner may  
131 negotiate with [any one of such contractors] the successful bidder a  
132 contract which is both fair and reasonable to the state for a community  
133 court project, as defined in subsection (j) of section 4b-55, the  
134 downtown Hartford higher education center project, as defined in  
135 subsection (l) of section 4b-55, The University of Connecticut library  
136 project, as defined in subsection (d) of section 4b-55, the Connecticut  
137 Juvenile Training School project, as defined in subsection (k) of section  
138 4b-55, a correctional facility project, as defined in subsection (m) of  
139 section 4b-55, a juvenile detention center project, as defined in  
140 subsection (n) of section 4b-55, or a student residential facility for the  
141 Connecticut State University system that is a priority higher education  
142 facility project, as defined in subsection (f) of section 4b-55. The  
143 Commissioner of Public Works shall submit any such contract to the  
144 State Properties Review Board for review pursuant to subsection (i) of  
145 this section. Any general contractor awarded a contract pursuant to  
146 this subsection shall be subject to the same requirements concerning  
147 the furnishing of bonds as a contractor awarded a contract pursuant to  
148 subsection (b) of this section.

149 (h) On and after October 1, 2004, any agency that seeks to have a  
150 project awarded without being subject to competitive bidding

151 procedures shall certify to the joint committee of the General Assembly  
152 having cognizance of matters relating to [legislative management]  
153 government administration and elections that the project is of such an  
154 emergency nature that an exception to the competitive bidding  
155 procedures of this section is required. Such certification shall include  
156 input from all affected agencies, detail the need for the exception and  
157 include any relevant documentation.

158 (i) In the event that the General Assembly approves legislation  
159 authorizing an exception to the competitive bidding process for a  
160 project, the State Properties Review Board shall complete a review of  
161 the contract for such project no later than thirty days after the  
162 Commissioner of Public Works submits such contract to the board.  
163 Such review shall be conducted in accordance with the provisions of  
164 section 4b-3, as amended by this act. In the event that such review does  
165 not occur within the thirty-day period prescribed by this subsection,  
166 such contract shall be deemed to be approved.

167 Sec. 2. Section 3 of public act 03-215 is repealed and the following is  
168 substituted in lieu thereof (*Effective October 1, 2004*):

169 (a) As used in this section: (1) "Prequalification" means  
170 prequalification issued by the Commissioner of Administrative  
171 Services to bid on a contract for the construction, reconstruction,  
172 alteration, remodeling, repair or demolition of any public building for  
173 work by the state or a municipality; (2) "subcontractor" means a person  
174 who performs work with a value in excess of twenty-five thousand  
175 dollars for a contractor pursuant to a contract for work for the state or  
176 a municipality which is estimated to cost more than five hundred  
177 thousand dollars; [and] (3) "principals and key personnel" includes  
178 officers, directors, shareholders, members, partners and managerial  
179 employees; (4) "aggregate work capacity rating" means the maximum  
180 amount of work an applicant is capable of undertaking for any and all  
181 projects; and (5) "single project limit" means the highest estimated cost  
182 of a single project that an applicant is capable of undertaking.

183 (b) (1) Any person may apply for prequalification to the Department  
184 of Administrative Services. Such application shall be made on such  
185 form as the Commissioner of Administrative Services prescribes and  
186 shall be accompanied by a nonrefundable application fee as set forth in  
187 subdivision (2) of this subsection. The application shall be signed  
188 under penalty of false statement.

189 (2) The application fee shall be as follows:

T1	Aggregate Work Capacity Rating	Fee
T2	\$5,000,000.00 or less	\$600.00
T3	\$5,000,000.01 - \$8,000,000.00	\$750.00
T4	\$8,000,000.01 - \$10,000,000.00	\$850.00
T5	\$10,000,000.01 - \$15,000,000.00	\$1,000.00
T6	\$15,000,000.01 - \$20,000,000.00	\$1,500.00
T7	\$20,000,000.01 - \$40,000,000.00	\$2,000.00
T8	\$40,000,000.01 or more	\$2,500.00

190 (c) The application form shall, at a minimum, require the applicant  
191 to supply information concerning:

192 (1) The applicant's form of organization;

193 (2) The applicant's principals and key personnel and any names  
194 under which the applicant, principals or key personnel conducted  
195 business during the past five years;

196 (3) The applicant's experience on public and private construction  
197 projects over the past five years, or on the applicant's ten most  
198 recently-completed projects and the names of any subcontractors used  
199 on the projects;

200 (4) Any legal or administrative proceedings pending or concluded  
201 adversely against the applicant or any of the applicant's principals or  
202 key personnel within the past five years which relate to the  
203 procurement or performance of any public or private construction  
204 contract and whether the applicant is aware of any investigation  
205 pending against the applicant or any principal or key personnel;

206 (5) The nature of any financial, personal or familial relationship  
207 between the applicant and any public or private construction project  
208 owner listed on the application as constituting construction experience;

209 (6) A statement of whether (A) the applicant has been disqualified  
210 pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B)  
211 the applicant is on the list distributed by the Labor Commissioner  
212 pursuant to section 31-57a, (C) the applicant is disqualified or  
213 prohibited from being awarded a contract pursuant to section 31-57b,  
214 (D) the applicant has been disqualified by another state, (E) the  
215 applicant has been disqualified by a federal agency or pursuant to  
216 federal law, (F) the applicant's registration has been suspended or  
217 revoked by the Department of Agriculture and Consumer Protection  
218 pursuant to section 20-341gg, as amended, (G) the applicant has been  
219 disqualified by a municipality, and (H) the matters that gave rise to  
220 any such disqualification, suspension or revocation have been  
221 eliminated or remedied; and

222 (7) Other information as the commissioner deems relevant to the  
223 determination of the applicant's qualifications and responsibilities.

224 (d) The applicant shall include a statement of financial condition  
225 prepared by a certified public accountant which includes information  
226 concerning the applicant's assets and liabilities, plant and equipment,  
227 bank and credit references, bonding company and maximum bonding  
228 capacity, and other information as the commissioner deems relevant to  
229 an evaluation of the applicant's financial capacity and responsibility.

230 (e) Information contained in the application shall be current as of  
231 the time of filing except that the statement of financial condition shall

232 pertain to the applicant's most recently-completed fiscal year.

233 (f) The commissioner shall determine whether to prequalify an  
234 applicant on the basis of the application and on relevant past  
235 performance according to procedures and criteria set forth in  
236 regulations which the commissioner shall adopt on or before October  
237 1, 2005, in accordance with chapter 54. Such criteria shall include, at a  
238 minimum, the record of the applicant's performance, including, but  
239 not limited to, written evaluations of the applicant's performance on  
240 public or private projects within the past five years, the applicant's  
241 past experience on projects of various size and type, the skill, ability  
242 and integrity of the applicant and any subcontractors used by the  
243 applicant, the experience and qualifications of supervisory personnel  
244 employed by the applicant, the maximum amount of work the  
245 applicant is capable of undertaking as demonstrated by the applicant's  
246 financial condition, bonding capacity, size of past projects and present  
247 and anticipated work commitments, and any other relevant criteria  
248 that the commissioner prescribes. Such regulations shall also (1)  
249 provide that the criteria considered shall be assigned separate  
250 designated numerical values and weights and that the applicant shall  
251 be assigned an overall numerical rating on the basis of all criteria, and  
252 (2) establish prequalification classifications, [and] aggregate work  
253 capacity ratings and single project limits. Such prequalification  
254 classifications shall be used to establish the types of work a contractor  
255 is qualified to perform and the aggregate work capacity ratings shall  
256 be used to establish the maximum amount of work a contractor is  
257 capable of undertaking.

258 (g) (1) The applicant shall indicate the prequalification  
259 classifications, [and] aggregate work capacity [rating] ratings and  
260 single project limits that are sought. The commissioner may issue a  
261 certificate of prequalification to any applicant who meets the  
262 requirements of this section. Such certificate shall be effective for one  
263 year from the date issued and shall indicate the contractor's  
264 prequalification classifications, [and] aggregate work capacity ratings  
265 and single project limits. The commissioner may cause the initial

266 certificate of prequalification to be effective for a period not to exceed  
267 two years and may require the applicant to remit payment of the  
268 application fee, as set forth in subsection (b) of this section, for the first  
269 twelve months of certification as well as a prorated application fee, as  
270 described in subdivision (3) of this subsection, for any additional  
271 period of certification beyond the first twelve months.

272 (2) A prequalified contractor may apply at any time for additional  
273 prequalification classifications, [or] aggregate work capacity ratings or  
274 single project limits by submitting the applicable increase in fee, a  
275 completed update statement, and other information the commissioner  
276 requires.

277 (3) The commissioner may renew a prequalification certificate upon  
278 receipt of a completed update statement, any other material the  
279 commissioner requires and a nonrefundable fee in an amount equal to  
280 one-half of the application fee for the applicable aggregate work  
281 capacity rating as set forth in subsection (b) of this section, except that  
282 in no event shall such fee be less than six hundred dollars.

283 (h) Not later than sixty days after receiving a completed application,  
284 the commissioner shall mail or send by electronic mail a notice to the  
285 applicant concerning the commissioner's preliminary determination  
286 regarding the conditions of the prequalification certification, a denial  
287 of certification, a reduction in the level of certification sought or  
288 nonrenewal of certification. Any applicant aggrieved by the  
289 commissioner's preliminary determination may request copies of the  
290 information upon which the commissioner relied in making the  
291 preliminary determination, provided such request is made not later  
292 than ten days after the date the notice was mailed [as indicated by the  
293 postmark on the envelope] or sent by electronic mail to the applicant.  
294 Not later than twenty days after [said postmark date] the date the  
295 notice was mailed or sent by electronic mail, the applicant may submit  
296 additional information to the commissioner with a request for  
297 reconsideration. The commissioner shall issue a final determination  
298 regarding the application not later than ninety days after the date the

299 commissioner mailed or sent by electronic mail the notice of the  
300 preliminary determination, which ninety-day period may be extended  
301 for an additional period not to exceed ninety days if (1) the  
302 commissioner gives written notice to the applicant that the  
303 commissioner requires additional time, and (2) such notice is mailed or  
304 sent by electronic mail during the initial ninety-day period.

305 (i) The commissioner may not issue a prequalification certificate to  
306 any contractor (1) who is disqualified pursuant to section 31-57c or 31-  
307 57d, [or] (2) who has a principal or key personnel who, within the past  
308 five years, has a conviction or has entered a plea of guilty or nolo  
309 contendere for or has admitted to commission of an act or omission  
310 that reasonably could have resulted in disqualification pursuant to any  
311 provision of subdivisions (1) to (3), inclusive, of subsection (d) of  
312 section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of  
313 section 31-57d, as determined by the commissioner.

314 (j) The commissioner may revoke a contractor's prequalification or  
315 reduce the contractor's prequalification classification or aggregate  
316 work capacity ratings, after an opportunity for a hearing, if the  
317 commissioner receives additional information that supports such  
318 revocation or reduction.

319 (k) (1) Any materially false statement in the application or any  
320 update statement may, in the discretion of the awarding authority,  
321 result in termination of any contract awarded the applicant by the  
322 awarding authority. The awarding authority shall provide written  
323 notice to the commissioner of such false statement not later than thirty  
324 days after discovering such false statement. The commissioner shall  
325 provide written notice of such false statement to the Commissioner of  
326 Public Works and the Commissioner of Agriculture and Consumer  
327 Protection not later than thirty days after discovering such false  
328 statement or receiving such notice.

329 (2) The commissioner shall revoke the prequalification of any  
330 person, after an opportunity for hearing, if the commissioner finds that

331 the person has included any materially false statement in such  
332 application or update statement, has been convicted of a crime related  
333 to the procurement or performance of any public or private  
334 construction contract or, within the past five years or has otherwise  
335 engaged in fraud in obtaining or maintaining prequalification. Any  
336 person whose prequalification has been revoked pursuant to this  
337 subsection shall be disqualified for a period of two years after which  
338 the person may reapply for prequalification, except that a person  
339 whose prequalification has been revoked on the basis of conviction of a  
340 crime or engaging in fraud shall be disqualified for a period of five  
341 years after which the person may reapply for prequalification. The  
342 commissioner shall not prequalify a person whose prequalification has  
343 been revoked pursuant to this subdivision until the expiration of said  
344 two or five-year disqualification period and the commissioner is  
345 satisfied that the matters that gave rise to the revocation have been  
346 eliminated or remedied.

347 (l) The commissioner shall provide written notice of any revocation,  
348 disqualification, reduction in classification or capacity rating or  
349 reinstated prequalification to the Commissioner of Public Works and  
350 the Commissioner of Agriculture and Consumer Protection not later  
351 than thirty days after any final determination.

352 (m) The provisions of this section and section 4 of [this act] public  
353 act 03-215, as amended by this act, shall not apply to subcontractors.

354 (n) The commissioner shall establish an update statement for use by  
355 bidders for purposes of renewing or upgrading a prequalification  
356 certificate and for purposes of submitting a bid pursuant to section 4b-  
357 91, as amended by this act.

358 (o) Any applicant aggrieved by the commissioner's final  
359 determination concerning a preliminary determination, a denial of  
360 certification, a reduction in prequalification classification or aggregate  
361 work capacity rating or a revocation or nonrenewal of certification  
362 may appeal to the Superior Court in accordance with section 4-183.

363 Sec. 3. Section 4 of public act 03-215 is repealed and the following is  
364 substituted in lieu thereof (*Effective October 1, 2004*):

365 (a) [The] On or before October 1, 2005, the Commissioner of  
366 Administrative Services shall adopt regulations, in accordance with  
367 chapter 54, to establish a standard contractor evaluation form. Such  
368 form shall include, at a minimum, the following evaluation criteria: (1)  
369 Timeliness of performance; (2) quality of performance; (3) cost  
370 containment, including, but not limited to, the contractor's ability to  
371 work within the contract's allotted cost, the accuracy of the contractor's  
372 billing, and the number and cause of change orders and the manner in  
373 which the contractor determined the price on the change orders; (4)  
374 safety; (5) the quality of the contractor's working relationship with the  
375 agency and the quality of the contractor's supervision of the work area;  
376 (6) communication with the agency; (7) the quality of the contractor's  
377 required documentation; (8) the performance of the contractor's  
378 subcontractors, to the extent known by the official who completes the  
379 evaluation; and (9) the contractor's and any subcontractor's compliance  
380 with part III of chapter 557, or chapter 558, or the provisions of the  
381 federal Davis-Bacon Act, 40 USC, Sections 276a to 276a-5, inclusive, as  
382 from time to time amended, to the extent known by the official who  
383 completes the evaluation.

384 (b) Each public agency shall compile evaluation information during  
385 the performance of the contract and complete and submit the  
386 evaluation form to the commissioner after completion of a building  
387 project under the agency's control if the building project is funded, in  
388 whole or in part, by state funds. Such evaluation information shall be  
389 available to any public agency for purposes of assessing the  
390 responsibility of the contractor during a bid selection and evaluation  
391 process. The designated official from such agency shall certify that the  
392 information contained in the evaluation form represents, to the best of  
393 the certifying official's knowledge, a true and accurate analysis of the  
394 contractor's performance record on the contract. The commissioner  
395 shall include the evaluation in the contractor's prequalification file. The  
396 official shall mail a copy of the completed evaluation form to the

397 contractor. Any contractor who wishes to contest any information  
398 contained in the evaluation form may submit a written response to the  
399 commissioner not later than thirty days after the date the form was  
400 mailed as indicated by the postmark on the envelope. Such response  
401 shall set forth any additional information concerning the building  
402 project or the oversight of the contract by the public agency that may  
403 be relevant in the evaluation of the contractor's performance on the  
404 project. The commissioner shall include any such response in the  
405 contractor's prequalification file.

406 (c) As used in this section, "public agency" means a public agency,  
407 as defined in section 1-200, but does not include The University of  
408 Connecticut with respect to any project, as defined in subdivision (16)  
409 of section 10a-109c, that is undertaken and controlled by the  
410 university, and "subcontractor" means a person who performs work  
411 with a value in excess of twenty-five thousand dollars for a contractor  
412 pursuant to a contract for work for the state or a municipality which is  
413 estimated to cost more than five hundred thousand dollars.

414 (d) Upon fifty per cent completion of any building project under a  
415 public agency's control, the agency shall advise the contractor in  
416 writing of the agency's preliminary evaluation of the contractor's  
417 performance on the project.

418 (e) No public agency, employee of a public agency or certifying  
419 official of a public agency shall be held liable to any contractor for any  
420 loss or injury sustained by such contractor as the result of the  
421 completion of an evaluation form, as required by this section, unless  
422 such agency, employee or official is found by a court of competent  
423 jurisdiction to have acted in a wilful, wanton or reckless manner.

424 (f) Any public agency that fails to submit a completed evaluation  
425 form, as required by this section, not later than seventy days after the  
426 completion of a project, shall be ineligible for the receipt of any public  
427 funds disbursed by the state for the purposes of the construction,  
428 reconstruction, alteration, remodeling, repair or demolition of any

429 public building or any public works project until such completed  
430 evaluation form is submitted.

431 Sec. 4. Section 6 of public act 03-215 is repealed and the following is  
432 substituted in lieu thereof (*Effective October 1, 2004*):

433 (a) Not later than January 1, [2004] 2006, and annually thereafter,  
434 each awarding authority, other than a municipality, shall prepare a  
435 report on the status of (1) any ongoing project for the construction,  
436 reconstruction, alteration, remodeling, repair or demolition of any  
437 public building which is estimated to cost more than five hundred  
438 thousand dollars and is paid for, in whole or in part, with state funds,  
439 or (2) any property management contract awarded by the Department  
440 of Public Works which has an annual value of one hundred thousand  
441 dollars or more. [The] Except for a school construction project, the  
442 awarding authority shall submit the report to the Governor and the  
443 joint standing committees of the General Assembly having cognizance  
444 of matters relating to government administration and finance, revenue  
445 and bonding. The report shall be submitted in accordance with section  
446 11-4a. The first report submitted after a contract is awarded shall  
447 indicate: (A) When, where and how the request for bids was  
448 advertised; (B) who bid on the projects; (C) the provisions of law that  
449 governed the award of the contract and if there were any deviations  
450 from standard procedure in awarding the contract; (D) the names of  
451 the individuals who had decision-making authority in awarding the  
452 contract, including, but not limited to, the individuals who served on  
453 any award panel; (E) if an award panel was used, whether the  
454 recommendation of the panel was followed and, if applicable, the  
455 reason why such recommendation was not followed; (F) whether the  
456 awarding authority has any other contracts with the contractor who  
457 was awarded the contract, and if so, the nature and value of the  
458 contract; and (G) any provisions of law that authorized or funded the  
459 project.

460 (b) The University of Connecticut shall not be required to submit a  
461 report pursuant to this section for any project, as defined in

462 subdivision (16) of section 10a-109c, that is undertaken and controlled  
463 by the university.

464 Sec. 5. Section 4b-100 of the general statutes, as amended by section  
465 7 of public act 03-215, is repealed and the following is substituted in  
466 lieu thereof (*Effective October 1, 2004*):

467 (a) The Commissioner of Public Works shall adopt regulations, in  
468 accordance with chapter 54, to implement the provisions of sections  
469 4b-91 to 4b-100, inclusive, as amended. Such regulations shall include  
470 (1) objective criteria for evaluating the qualifications of bidders, [and]  
471 (2) objective criteria for evaluating proposals, and (3) the procedures  
472 for evaluating bids after the prequalification status of the bidder has  
473 been verified.

474 (b) The Commissioner of Public Works shall adopt regulations, in  
475 accordance with the provisions of chapter 54, establishing a procedure  
476 for promptly hearing and ruling on claims alleging a violation or  
477 violations of sections 4b-91 to 4b-100, inclusive, as amended. Such  
478 claims may be initiated by the Department of Public Works or any  
479 party whose financial interests may be affected by the decision on such  
480 a claim.

481 Sec. 6. Section 8 of public act 03-215 is repealed and the following is  
482 substituted in lieu thereof (*Effective October 1, 2004*):

483 (a) The Department of Public Works shall establish construction  
484 services award panels which shall each consist of six members: Three  
485 of whom shall be appointed by the Commissioner of Public Works and  
486 shall be current employees of the Department of Public Works; two of  
487 whom shall be appointed by the department head of the user agency;  
488 and one of whom who shall be a neutral party appointed by the  
489 commissioner. The members of each award panel appointed by the  
490 Commissioner of Public Works shall serve for terms of one year from  
491 July first. If any vacancy occurs on the panel, the Commissioner of  
492 Public Works or the head or acting head of the user agency, as  
493 appropriate, shall appoint a person for the unexpired term in

494 accordance with the provisions of this subsection.

495 (b) A panel established pursuant to this section shall not be deemed  
496 to be a board or commission within the meaning of section 4-9a, as  
497 amended. Such panels shall be the award panels for any contract for  
498 the construction, reconstruction, alteration, remodeling, repair or  
499 demolition of any public building for the state pursuant to sections 4b-  
500 91 to 4b-100, inclusive, as amended, and section 4b-24, as amended.

501 (c) For each applicable contract, the commissioner shall designate  
502 one panel to screen all submitted proposals and establish a list of  
503 bidders to be interviewed and shall designate a separate panel  
504 consisting of different members to interview bidders on the list and  
505 submit a list of recommended contractors to the commissioner ranked  
506 in order of preference with the most qualified bidder listed first.

507 (d) The commissioner shall designate one voting member on each  
508 panel to serve as chairperson. The chairperson shall moderate the  
509 committee, collect votes and compile the results.

510 (e) Each award panel shall prepare a memorandum on the selection  
511 process indicating (1) how the evaluation criteria were applied by each  
512 panel member to determine the most qualified firms, (2) the ranking of  
513 each bidder by each panel member which shall be available to the  
514 public after execution of the contract with the selected contractor, and  
515 (3) a certification by each panel member that the selection of the most  
516 qualified firm was not the result of collusion, the giving of a gift or the  
517 promise of a gift, compensation, fraud or inappropriate influence from  
518 any person who was not part of the selection process.

519 (f) The commissioner shall select a contractor from among the list of  
520 firms submitted by the award panel that interviewed the contractors.  
521 After the commissioner has made a selection, the names of the  
522 contractor firms submitted to the commissioner shall be available to  
523 the public upon request. In the event the commissioner does not select  
524 the most qualified bidder listed by the awards panel, the commissioner  
525 shall prepare a written explanation of the commissioner's decision. The

526 commissioner shall also prepare a memorandum on the final phase of  
527 the selection process, indicating how the commissioner applied the  
528 evaluation criteria to determine the [most qualified firm] successful  
529 bidder. Such memorandum shall include a certification by the  
530 commissioner that the commissioner's selection of the successful  
531 bidder was not the result of collusion, the giving of a gift or the  
532 promise of a gift, compensation, fraud or undue pressure from any  
533 person who was not part of the selection process and shall be available  
534 to the public after execution of the contract with the selected  
535 contractor.

536 [(f)] (g) The commissioner shall adopt regulations, in accordance  
537 with chapter 54, to implement the provisions of this section.

538 Sec. 7. Section 4b-1 of the general statutes is repealed and the  
539 following is substituted in lieu thereof (*Effective October 1, 2004*):

540 (a) The Commissioner of Public Works shall (1) be responsible for  
541 the administrative functions of construction and planning of all capital  
542 improvements undertaken by the state, except (A) highway and bridge  
543 construction, the construction and planning of capital improvements  
544 related to mass transit, marine and aviation transportation, (B) the  
545 Connecticut Marketing Authority, (C) planning and construction of  
546 capital improvements to the State Capitol building or the Legislative  
547 Office Building and related facilities by the Joint Committee on  
548 Legislative Management, (D) any project as defined in subdivision (16)  
549 of section 10a-109c, undertaken by The University of Connecticut, and  
550 (E) construction and planning of capital improvements related to the  
551 Judicial Department if such construction and planning do not  
552 constitute a project within the meaning of subsection (g) of section 4b-  
553 55, as amended, including the preparation of preliminary plans,  
554 estimates of cost, development of designs, working plans and  
555 specifications, award of contracts and supervision and inspection. For  
556 the purposes of this subparagraph (E), the term "Judicial Department"  
557 does not include the courts of probate, the Division of Criminal Justice  
558 and the Public Defender Services Commission, except where such

559 agencies share facilities in state-maintained courts; (2) select consultant  
560 firms in accordance with the provisions of sections 4b-56 to 4b-59,  
561 inclusive, to assist in the development of plans and specifications  
562 when in the commissioner's judgment such assistance is desirable; (3)  
563 render technical advice and service to all state agencies in the  
564 preparation and correlation of plans for necessary improvement of  
565 their physical plants; (4) cooperate with those charged with fiscal  
566 programming and budget formulation in the development of a capital  
567 program and a capital budget for the state; (5) be responsible for the  
568 purchase, sale, lease, sublease and acquisition of property and space to  
569 house state agencies and, subject to the provisions of section 4b-21, the  
570 sale or exchange of any land or interest in land belonging to the state;  
571 (6) maintain a complete and current inventory of all state-owned or  
572 leased property and premises, including space-utilization data; (7)  
573 supervise the care and control of buildings and grounds owned or  
574 leased by the state in Hartford, except the building and grounds of the  
575 State Capitol and the Legislative Office Building and parking garage  
576 and related structures and facilities and grounds, as provided in  
577 section 2-71h, and the Connecticut Marketing Authority and property  
578 under the supervision of the Office of the Chief Court Administrator  
579 under the terms of section 4b-11; and (8) be responsible for the  
580 administrative functions of establishing and maintaining security  
581 standards for all facilities housing the offices and equipment of the  
582 state except (A) Department of Transportation mass transit, marine  
583 and aviation facilities, (B) the State Capitol and the Legislative Office  
584 Building and related facilities, (C) facilities under the care and control  
585 of The University of Connecticut or other constituent units of the state  
586 system of higher education, (D) Judicial Department facilities, (E)  
587 Department of Public Safety facilities, (F) Military Department  
588 facilities, (G) Department of Correction facilities, (H) Department of  
589 Children and Families client-occupied facilities, (I) facilities occupied  
590 by the Governor, Lieutenant Governor, Attorney General,  
591 Comptroller, Secretary of the State and Treasurer, and (J) facilities  
592 occupied by the Board of Parole. As used in this subdivision, "security"  
593 has the meaning assigned to it in section 4b-130. Subject to the

594 provisions of chapter 67, said commissioner may appoint such  
595 employees as are necessary for carrying out the duties prescribed to  
596 said commissioner by the general statutes.

597 (b) Notwithstanding any other provision of the general statutes, [to  
598 the contrary,] except for the property of The University of Connecticut,  
599 the commissioner may supervise the care and control of (1) any state-  
600 owned or leased office building, and related buildings and grounds,  
601 outside the city of Hartford, used as district offices, except any state-  
602 owned or leased office building, and related buildings and grounds,  
603 used by the Judicial Department, and (2) any other state-owned or  
604 leased property, on a temporary or permanent basis, if the  
605 commissioner, the Secretary of the Office of Policy and Management  
606 and the executive head of the department or agency supervising the  
607 care and control of such property agree, in writing, to such  
608 supervision.

609 Sec. 8. Section 4b-3 of the general statutes, as amended by section  
610 146 of public act 03-6 of the June 30 special session, is repealed and the  
611 following is substituted in lieu thereof (*Effective October 1, 2004*):

612 (a) There is established a State Properties Review Board which shall  
613 consist of six members appointed as follows: The speaker of the House  
614 and president pro tempore of the Senate shall jointly appoint three  
615 members, one of whom shall be experienced in matters relating to  
616 architecture, one experienced in building construction matters and one  
617 in matters relating to engineering; and the minority leader of the  
618 House and the minority leader of the Senate shall jointly appoint three  
619 members, one of whom shall be experienced in matters relating to the  
620 purchase, sale and lease of real estate and buildings, one experienced  
621 in business matters generally and one experienced in the management  
622 and operation of state institutions. No more than three of said six  
623 members shall be of the same political party. One of the members first  
624 appointed by the speaker and the president pro tempore shall serve a  
625 two-year term, one shall serve a three-year term and one shall serve a  
626 four-year term. One of the members first appointed by the minority

627 leaders of the House and Senate shall serve a two-year term, one shall  
628 serve a three-year term and one shall serve a four-year term. All  
629 appointments of members to replace those whose terms expire shall be  
630 for a term of four years and until their successors have been appointed  
631 and qualified. If any vacancy occurs on the board, the appointing  
632 authorities having the power to make the initial appointment under  
633 the provisions of this section shall appoint a person for the unexpired  
634 term in accordance with the provisions hereof.

635 (b) The chairman of the board shall be compensated two hundred  
636 dollars per diem up to a maximum of thirty thousand dollars annually.  
637 Other members of the board shall be compensated two hundred  
638 dollars per diem up to a maximum of twenty-five thousand dollars  
639 annually. The members of the board shall choose their own chairman.  
640 No person shall serve on this board who holds another state or  
641 municipal governmental position and no person on the board shall be  
642 directly involved in any enterprise which does business with the state  
643 or directly or indirectly involved in any enterprise concerned with real  
644 estate acquisition or development.

645 (c) The board may adopt such rules as it deems necessary for the  
646 conduct of its internal affairs, in accordance with section 4-167, and  
647 may employ a secretary, a clerk, and within its budget, such  
648 employees as it shall deem necessary.

649 (d) Notwithstanding any other statute or special act to the contrary,  
650 the Commissioner of Public Works shall be the sole person authorized  
651 to represent the state in its dealings with third parties for the  
652 acquisition, construction, development or leasing of real estate for  
653 housing the offices or equipment of all agencies of the state or for the  
654 state-owned public buildings or realty hereinafter provided for in  
655 section 2-90, as amended, sections 4b-1 to 4b-5, inclusive, 4b-21, 4b-23,  
656 4b-24, as amended, 4b-26, 4b-27, 4b-30 and 4b-32, subsection (c) of  
657 section 4b-66, sections 4b-67 to 4b-69, inclusive, 4b-71, 4b-72, 10-95,  
658 10a-72, 10a-89, 10a-90, 10a-114, 10a-130, 10a-144, 17b-655, 22-64, 22a-  
659 324, 26-3, as amended, 27-45, 32-1c, 32-39, 48-9, 51-27d and 51-27f,

660 except that the Joint Committee on Legislative Management may  
661 represent the state in the planning and construction of the Legislative  
662 Office Building and related facilities, in Hartford; the board of trustees  
663 of a constituent unit of the state system of higher education may  
664 represent the state in the leasing of real estate for housing the offices or  
665 equipment of such constituent unit provided no lease payments for  
666 such realty are made with funds generated from the general revenues  
667 of the state; the Labor Commissioner may represent the state in the  
668 leasing of premises required for employment security operations as  
669 provided in subsection (c) of section 31-250; the Commissioner of  
670 Mental Retardation may represent the state in the leasing of residential  
671 property as part of the program developed pursuant to subsection (b)  
672 of section 17a-218, provided such residential property does not exceed  
673 two thousand five hundred square feet, for the community placement  
674 of persons eligible to receive residential services from the department  
675 and the Connecticut Marketing Authority may represent the state in  
676 the leasing of land or markets under the control of the authority, and,  
677 except for the housing of offices or equipment in connection with the  
678 initial acquisition of an existing state mass transit system or the leasing  
679 of land by said Marketing Authority for a term of one year or more in  
680 which cases the actions of the Department of Transportation and the  
681 Marketing Authority shall be subject to the review and approval of the  
682 State Properties Review Board. Said commissioner shall have the  
683 power to establish and implement any procedures necessary for him to  
684 assume his responsibilities as said sole bargaining agent for state realty  
685 acquisitions and shall perform the duties necessary to carry out such  
686 procedures. He may appoint, within his budget and subject to the  
687 provisions of chapter 67, such personnel deemed necessary by him to  
688 carry out the provisions hereof, including experts in real estate,  
689 construction operations, financing, banking, contracting, architecture  
690 and engineering. The Attorney General's office, at the request of the  
691 commissioner, shall assist the commissioner in contract negotiations  
692 regarding the purchase, lease or construction of real estate.

693 (e) The State Properties Review Board shall be an independent body

694 within the Executive Department.

695 (f) The State Properties Review Board shall review real estate  
696 acquisitions, sales, leases and subleases proposed by the  
697 Commissioner of Public Works, [and] the acquisition, other than by  
698 condemnation, or the sale or lease of any property by the  
699 Commissioner of Transportation under subdivision (12) of section 13b-  
700 4, as amended, subject to section 4b-23 and subsection (h) of section  
701 13a-73 and any contract for a project described in subsection (h) of  
702 section 4b-91, as amended by this act. Such review shall consider all  
703 aspects of the proposed actions, including feasibility and method of  
704 acquisition and the prudence of the business method proposed. The  
705 board shall also cooperate with and advise and assist the  
706 Commissioner of Public Works and the Commissioner of  
707 Transportation in carrying out their duties. The board shall have access  
708 to all information, files and records, including financial records, of the  
709 Commissioner of Public Works and the Commissioner of  
710 Transportation, and shall, when necessary, be entitled to the use of  
711 personnel employed by said commissioners. The board shall approve  
712 or disapprove any acquisition of development rights of agricultural  
713 land by the Commissioner of Agriculture and Consumer Protection  
714 under section 22-26cc, as amended.

715 Sec. 9. Section 4b-63 of the general statutes is repealed and the  
716 following is substituted in lieu thereof (*Effective October 1, 2004*):

717 (a) Whenever the state plans demolition of a state building or  
718 structure, and the site upon which such building or structure is located  
719 is not to be used for a state project already authorized and funded, the  
720 Commissioner of Public Works shall first notify the chief executive  
721 officer of the municipality wherein the building or structure to be  
722 demolished is located, by registered or certified mail, at least sixty  
723 days prior to the public advertisement of the bid for services necessary  
724 to accomplish such demolition.

725 (b) The municipality wherein the building or structure is to be

726 demolished may, within the period prior to the public advertisement  
 727 of such bid, submit a bid to said commissioner for the purchase of such  
 728 state building or structure, and the commissioner may accept such bid  
 729 provided the use which the municipality intends for the building or  
 730 structure is compatible with state needs and programs. Any such  
 731 accepted bid shall be subject to review by the State Properties Review  
 732 Board. In the event the municipality intends to move the building, the  
 733 costs thereof shall not be paid by the state.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>

**Statement of Legislative Commissioners:**

The section of House "A" proposing to amend subdivision (4) of section 4b-24 was deleted because no changes were actually made to that subdivision.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 05 \$</b>	<b>FY 06 \$</b>
Pub. Works, Dept.	GF - None	None	None
Prop. Review Bd.	GF - None	None	None
Resources of the General Fund	GF - Savings	Potential Significant	Potential Significant
Department of Administrative Services	GF - None	None	None

Note: GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 05 \$</b>	<b>FY 06 \$</b>
Various Municipalities	Savings	Potential Significant	Potential Significant

### **Explanation**

The bill makes state agencies and their employees who complete contractor evaluation forms immune from civil liability for any loss or injury sustained by a contractor due to completion of the evaluation forms. This change reduces the state's liability since state agencies and their employees are indemnified under current law. Consequently, the bill could result in future state savings by precluding certain costs associated with contracted legal representation and/or payments to claimants.

The bill also makes municipalities and their employees immune from civil liability associated with completion of the evaluation form as required under Section 6 of Public Act 03-215, as amended by the bill. To the extent this provision reduces municipalities' liability, they could experience a future savings similar to the state.

The bill makes the Department of Public Works (DPW) responsible

for subleasing and selling state agencies' office space. DPW is already responsible for purchasing and leasing. Any workload increases can be handled within existing staff and resources.

The bill requires the State Properties Review Board to: (1) review state sales, leases and subleases of real property, and (2) to review all construction projects that have been designated a "fast track" by the General Assembly. It also permits the agency to review, but not approve, municipal bids that have been accepted by DPW for the purchase of state buildings or structures that are slated for demolition and are located on land the state does not intend to use for another purpose. Any workload increase can be handled within existing staff and resources.

Lastly, the bill makes several changes to contractor prequalification applications, prequalification certificates and contractor evaluations, none of which has a fiscal impact on the Department of Administrative Services.

House Amendment "A" strikes the original bill and its associated fiscal impact, thus becoming the bill with the above referenced fiscal impact.

---

**OLR Bill Analysis**

sHB 5433 (as amended by House "A")\*

**AN ACT REVISING PREQUALIFICATION REQUIREMENTS FOR STATE CONSTRUCTION CONTRACTS****SUMMARY:**

This bill makes several changes to the laws governing public construction, including who may work on public construction projects, the requirements for obtaining this work, and reports and evaluations on the quality of the work. Most of these changes are to PA 03-215, which established new procedures for bidding on and awarding public construction contracts most of which become effective on October 1, 2004. That act's prequalification provisions become effective on July 1, 2004 and its status report requirements were effective on January 1, 2004.

Specifically, the bill:

1. expands the Department of Public Works (DPW) commissioner's and State Property Review Board's (SPRB) responsibilities regarding state agencies' office space needs;
2. makes changes to contractor prequalification laws, including requiring new information on prequalification applications, and adding new grounds for disqualification;
3. changes the process for awarding emergency, non-bid contracts beginning October 1, 2004;
4. increases the information that the DPW commissioner and each member of the construction awards panel must prepare on the selection process;
5. makes the contractor evaluations that each state agency must prepare after a construction project is completed available to all agencies for their use in assessing the contractor's fitness for future projects;

6. absolves from liability agencies and their employees who complete the evaluations;
7. delays for two years, from January 1, 2004 to January 1, 2006, awarding authorities' duty to complete status reports on construction projects;
8. eliminates a requirement for municipalities to complete the reports; and
9. requires DPW regulations to include objective criteria for evaluating contract proposals.

\*House Amendment "A" eliminates provisions in the original bill that (1) established a contractor's code of ethics, (2) established penalties for failing to complete construction status reports, (3) added additional grounds for rejecting bidders as not responsible, (4) required agencies to adopt policies for disclosing information to bidders, and (5) required agencies to adopt objective criteria for awarding large construction and procurement contracts.

EFFECTIVE DATE: October 1, 2004

### **STATE AGENCY SPACE NEEDS**

The bill makes the DPW commissioner responsible for the sale or sublease of state agencies' office space. He is already responsible for purchasing, leasing, or acquiring state agencies' property and space. It requires the SPRB to review the commissioner's proposal to sell, lease, or sublease state property in the same way that it currently reviews real estate acquisitions.

The bill also requires the SPRB to review any bid submitted by a town to purchase a state building or structure selected for demolition. By law, towns have a right of first refusal to bid on such property located within their borders.

### **PREQUALIFICATION**

#### ***Applications***

The law requires contractors, but not subcontractors, to prequalify before bidding on any state or municipal construction contract valued at \$500,000 or more. To prequalify, they must submit an application, along with a nonrefundable fee, to the Department of Administrative Services (DAS) commissioner. The law requires the commissioner to adopt prequalification procedures and criteria in regulations.

The bill sets October 1, 2005 as the deadline for the commissioner to adopt regulations on prequalification procedures and criteria. It requires the regulations to include single project limits, which are the highest estimated cost of a single project that an applicant is capable of undertaking.

It requires applicants for prequalification, in addition to their aggregate work capacity rating, to include the single project limits that they are seeking. Like they can with aggregate work capacity rating, the bill allows a qualified contractor to apply for additional single project limits at any time. "Aggregate work capacity rating" is the maximum amount of work a contractor is capable of undertaking for any and all projects

### ***Prequalification Certificates***

By law, the DAS commissioner can give an applicant that meets the requirement a one-year certificate of prequalification that includes the types of work he can perform and the maximum amount of work he is capable of undertaking. The bill allows the commissioner to make the initial certificate effective for up to two years. It requires the contractor receiving this extended certificate to pay the fee for a one-year certificate plus a prorated fee for the period over one year.

It allows the commissioner to send preliminary determinations on prequalification certificates by e-mail, instead of just by regular mail.

### ***Disqualification***

The bill generally prohibits public officials from talking to bidders about a contract before it is awarded if the communication would result in the bidder receiving contract information that is not available to other bidders. Employees of construction contract awarding authorities are already prohibited from having these conversations.

The bill makes bidders who receive non-public information about a contract from state employees prior to the date it is advertised disqualified from bidding on the contract. These bidders are already disqualified if they receive this confidential information from public officials.

### **CONSTRUCTION ADVERTISING AND BID REQUIREMENTS**

By law, authorities responsible for awarding most state contracts must do so on the basis of competitive bidding. Once the bids are in, the authority must award the contract to the lowest responsible qualified bidder who is prequalified by the DAS commissioner.

The bill eliminates a requirement for agencies that award construction contracts to include in their ads for bids the aggregate work capacity rating required to do the job. The law still requires bidders to submit their prequalification certificate, which shows their aggregate work capacity rating, with each bid. The bill requires the DAS commissioner to also include on the certificate the contractor's single project limit.

The bill expands the information that bidders must report in the update statement that they are required to submit with each bid to include changes in their qualification status.

### **EMERGENCY NO-BID CONTRACTS**

By law, the DPW commissioner can select and interview at least three responsible and qualified general contractors and negotiate with any one of them to complete any of seven special building projects: a community court, Connecticut Juvenile Training School, downtown Hartford higher education center, University of Connecticut library, a correctional facility, a juvenile detention center, and a student residential facility for the Connecticut State University system.

The bill requires the commissioner to submit the names of three contractors to the Construction Services Awards Panel, which must select one to negotiate for the contract with the commissioner. It requires the commissioner to submit the contract for review by the SPRB.

Beginning October 1, 2004, the bill requires agencies seeking to award a contract without competitive bidding to certify to the Government

Administration and Elections Committee (GAE), rather than the Legislative Management Committee, that an emergency exists that justifies an exception to the competitive bidding process. If the legislature approves the contract, the bill requires the SPRB to complete a review of it not later than 30 days after the commissioner submits it. If the review is not completed within this time period, the contract is deemed approved.

### **CONTRACT SELECTION PROCESS**

The bill requires Construction Services Award Panels to rank, by qualification, the list of contractors it submits to the DPW commissioner for possible negotiations. The panels select the contractors who can negotiate with the DPW commissioner to build, alter, or repair state buildings.

The bill increases the information that each panel must prepare on the selection process. In addition to how the evaluation criteria were used to determine the most qualified firms, it must indicate how each panel member ranked each bidder. The ranking is available for public disclosure after the contract is executed.

The bill requires each panel to prepare a memorandum on the selection process that includes each member's certification that his selection of the most qualified firm was free from collusion, gift giving, compensation, fraud, or other inappropriate influences. It requires the commissioner to include in his memorandum on the process an explanation of his reasoning if he does not award a contract to the lowest responsible qualified contractor as selected by the selection panel. The bill requires him to make the same certification as panel members.

### **CONTRACTOR EVALUATIONS**

By law, each public agency, other than UConn, must complete and submit to DAS an evaluation on each contractor at the conclusion of his state-funded work on a building under the agency's control. The bill, instead, requires the agencies to complete the evaluation while the work is being done and submit it to DAS once the work is completed.

It makes the evaluation information available to public agencies for assessing a contractor's "responsibility" during the bid selection and

evaluation process. A designated agency official must certify that the evaluation information is, to the best of his knowledge, a true and accurate analysis of the contractor's performance on the contract.

The bill protects public agencies and their employees or certifying officials who complete the evaluation from any loss or injury it causes the contractor. The protection does not cover agencies, employees, or certifying officials who complete the evaluation in a willful, wanton, or reckless manner.

The bill makes public agencies that fail to complete the evaluation within 70 days after the job is done ineligible for any state funds to build, remodel, repair, or demolish any public building or public works project until the evaluation is completed.

The law requires the DAS commissioner to adopt regulations establishing a standard contractor evaluation form. The bill sets October 1, 2005 as the deadline for her to adopt these regulations.

## **STATUS REPORTS**

By law, all awarding authorities, other than UConn, must report on any (1) ongoing building construction contract estimated to cost more than \$500,000 that will be paid, in whole or in part, with state funds or (2) DPW-awarded property management contract with an annual value of \$100,000 or more. The bill delays for two years, until January 1, 2006, the duty of most awarding authorities to prepare and submit these annual status reports. It also eliminates a requirement for municipalities to complete the report.

## **BACKGROUND**

### ***Legislative History***

On April 6 and 15, respectively, the House referred the bill (file 408) to the Judiciary and Legislative Management committees. Both committees voted it favorably, without change.

## **COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute  
Yea 17    Nay 0

Judiciary Committee

Joint Favorable Report  
Yea 35    Nay 1

Legislative Management Committee

Joint Favorable Report  
Yea 21    Nay 0