



**Substitute Senate Bill No. 94**

**Public Act No. 05-286**

**AN ACT CONCERNING REFORM OF THE STATE CONTRACTING PROCESS.**

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

Section 1. (NEW) (*Effective July 1, 2005*) For purposes of sections 2 to 10, inclusive, 14 and 15 of this act:

(1) "Procurement" means contracting for, buying, purchasing, renting, leasing or otherwise acquiring or disposing of, any supplies, services, including but not limited to, contracts for purchase of services and personal service agreements, interest in real property, or construction, and includes all government functions that relate to such activities, including best value selection and qualification based selection.

(2) "Emergency procurement" means procurement by a state agency that is made necessary by a sudden, unexpected occurrence that poses a clear and imminent danger to public safety or requires immediate action to prevent or mitigate the loss or impairment of life, health, property or essential public services or in response to a court order, settlement agreement or other similar legal judgment.

(3) "Best value selection" means a contract selection process in which the award of a contract is based on a combination of quality and cost

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considerations.

(4) "Qualification based selection" means a contract selection process in which the award of a contract is primarily based on an assessment of contractor qualifications and on the negotiation of a fair and reasonable price.

(5) "State contracting agency" means any state agency or political subdivision of the state, other than the State Contracting Standards Board, as established pursuant to section 2 of this act, that is authorized by law to enter into contracts, including, but not limited to, any quasi-public agency, as defined in section 1-120 of the general statutes, and any state agency, as defined in section 4a-50 of the general statutes, that receives state funds. State contracting agency does not include the Judicial Department or the Joint Committee on Legislative Management.

(6) "Contractor" means any person or entity bidding on, submitting a proposal for, applying for or participating as a subcontractor for, a transaction, procurement or contract described in section 3 of this act, including, but not limited to, a small contractor, minority business enterprise, organization providing products and services by persons with disabilities, as described in section 17b-656 of the general statutes, and an individual with a disability, as defined in section 4a-60g of the general statutes.

(7) "Contract risk assessment" means (A) the identification and evaluation of loss exposures and risks, including, but not limited to, business and legal risks associated with the contracting process and the contracted goods and services, and (B) the identification, evaluation and implementation of measures available to minimize potential loss exposures and risks.

(8) "Privatization contract" means an agreement or series of

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agreements between a state contracting agency and a person, in which such person agrees to provide services valued at five hundred thousand dollars or more over the life of the contract that are substantially similar to and in lieu of services provided, in whole or in part, by employees of such agency or by employees of another state agency for such state agency and that results in the layoff, transfer or reassignment of any state employee. "Privatization contract" does not include the renewal, modification, extension or rebidding of a privatization agreement in effect on or before the effective date of this section, an agreement to only provide legal services, litigation support or management or financial consulting or a consultant-services agreement to provide professional architectural or design services on a project-by-project basis for only a period of time.

(9) "Comparative costs" means a comparison of the costs of entering into a privatization contract to the costs of the state continuing to provide the services that are the subject of the privatization contract, using a comparative costs methodology.

(10) "Comparative costs analysis" means an examination of all direct and indirect costs to the state and an examination of the effect of a proposed privatization contract on the public health and safety of residents of the state who may utilize such privatized service.

(11) "Purchase of service agreement" means any contract between a state agency and a nonprofit agency, partnership or corporation for the purchase by the state of ongoing and routine health and human services for clients of the Departments of Social Services, Children and Families, Mental Retardation, Mental Health and Addiction Services, Public Health and Correction which is overseen by the Office of Policy and Management.

(12) "Rebidding" means a state contracting agency's requesting of proposals or qualifications for a contract to provide goods or services

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that are specific to an existing facility or program provided such goods or services are being provided under a contract in effect as of July 1, 2005.

Sec. 2. (NEW) (*Effective July 1, 2005*) (a) There is established a State Contracting Standards Board that shall consist of nine members appointed as follows: Five members shall be appointed by the Governor, two members shall be appointed by the speaker of the House of Representatives and two members shall be appointed by the president pro tempore of the Senate whenever the Governor is of a different political party than that which controls both houses of the General Assembly; five members shall be appointed by the Governor and four members appointed by the highest ranking leader of the opposing party of the applicable house of the General Assembly whenever the political party of the Governor also controls only one of the houses of the General Assembly; five members shall be appointed by the Governor, two members by the minority leader of the House of Representatives and two members by the minority leader of the Senate whenever the political party of the Governor controls both houses of the General Assembly; and five members by the Governor, two members by the speaker of the House of Representatives and two members by the president pro tempore of the Senate whenever the Governor is an independent. Each member shall be appointed in accordance with the provisions of section 4-7 of the general statutes and have demonstrated sufficient knowledge by education, training or experience in several of the following enumerated areas: (1) Procurement; (2) contract negotiation, selection and drafting; (3) contract risk assessment; (4) requests for proposals and real estate transactions; (5) business insurance and bonding; (6) the code of ethics; (7) federal and state statutes, policies and regulations; (8) outsourcing and privatization proposal analysis; (9) small and minority business enterprise development; and (10) personnel and union management. Such education, training or experience shall have been acquired over

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not less than a continuous five-year period and shall have been acquired within the ten-year period preceding such appointment. Nothing in this section shall be construed to prohibit an appointing authority from selecting a member of the general public who has demonstrated an interest in governmental ethics and integrity to serve on the board as such appointing authority's appointee. The chairperson of the board shall be appointed by the members of the board. The terms of the members shall be coterminous with the terms of the appointing authority for each member. If any vacancy occurs on the board, the appointing authorities having the power to make the appointment under the provisions of this subsection shall appoint a person in accordance with the provisions of this subsection.

(b) The State Contracting Standards Board shall be an independent body within the Executive Department.

(c) The chairperson of the board shall be compensated two hundred dollars per diem up to a maximum of thirty thousand dollars annually. Other members of the board shall be compensated two hundred dollars per diem up to a maximum of twenty-five thousand dollars annually. No person shall serve on the board who holds another state or municipal governmental position and no person on the board nor any spouse, child, stepchild, parent or sibling of such person shall be directly or indirectly involved in any enterprise that does business with the state.

(d) The Governor shall appoint an executive director who shall serve as an ex-officio, nonvoting member of the board. The executive director shall be appointed in accordance with the provisions of section 4-7 of the general statutes and may be removed from office for reasonable cause, in accordance with chapter 67 of the general statutes. The board shall, annually, conduct a performance evaluation of such executive director.

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(e) The board may employ secretaries, real estate examiners, contract specialists, forensic fraud examiners, property and procurement specialists, paralegals, attorneys and such other employees as the board deems necessary, all of whom shall be in the state classified service.

(f) The reasonable expenses of the State Contracting Standards Board and its employees shall be paid from the budget of the board upon the approval of the board.

(g) No employee of the State Contracting Standards Board shall hold another state or municipal position, nor shall any such employee or any nonclerical employee or any spouse, child, stepchild, parent or sibling of such employee of the board be directly or indirectly involved in any enterprise that does business with the state. Each member and employee of the State Contracting Standards Board shall file, with the board and with the State Ethics Commission, a financial statement indicating all sources of business income of such person in excess of one thousand dollars, and the name of any business with which such member or employee is associated, as defined in subsection (b) of section 1-79 of the general statutes. Such statement shall be a public record. Financial statements for the preceding calendar year shall be filed with the commission on or before April fifteenth of each year if such employee or member held such a position during the preceding calendar year.

(h) Any violation of the provisions of subsection (c) or (g) of this section shall constitute a violation of part I of chapter 10 of the general statutes and may be the subject of a complaint and investigation filed and conducted in accordance with the provisions of section 1-82 of the general statutes.

(i) The board shall adopt such rules as it deems necessary for the conduct of its internal affairs, in accordance with section 4-167 of the

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general statutes, including, but not limited to, rules of procedure for any appeal taken pursuant to section 10 of this act and any review undertaken pursuant to section 12 of this act.

(j) Six members of the board shall constitute a quorum which shall be required for the transaction of business by the board.

Sec. 3. (NEW) (*Effective July 1, 2005*) (a) On or before January 1, 2007, the State Contracting Standards Board shall prepare a uniform procurement code applicable to state contracting agency expenditures, including, but not limited to, expenditures: (1) By municipalities that receive state funds, (2) involving any state contracting and procurement processes, including, but not limited to, leasing and property transfers, purchasing or leasing of supplies, materials or equipment, as defined in section 4a-50 of the general statutes, consultant or consultant services, as defined in section 4b-55 of the general statutes, personal service agreements, as defined in section 4-212 of the general statutes, purchase of service agreements or privatization contracts, and (3) relating to contracts for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building. Nothing in this section shall be construed to require the application of uniform procurement code procedures when such procurement involves the expenditure of federal assistance or contract funds and federal law provides applicable procurement procedures.

(b) The uniform procurement code described in subsection (a) of this section shall be designed to: (1) Establish uniform contracting standards and practices among the various state contracting agencies; (2) simplify and clarify the state's laws governing contracting standards and procurement policies and practices, including, but not limited to, procedures for competitive sealed bids, competitive sealed proposals, small purchases, sole source procurements, emergency procurements and special procurements; (3) ensure the fair and

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equitable treatment of all businesses and persons who deal with the procurement system of the state; (4) include a process to maximize the use of small contractors and minority business enterprises, as defined in section 4a-60g of the general statutes; (5) provide increased economy in state procurement activities and maximize purchasing value to the fullest extent possible; (6) ensure that the procurement of supplies, materials, equipment, services, real property and construction required by any state contracting agency is obtained in a cost-effective and responsive manner; (7) preserve and maintain the existing contracting, procurement, disqualification and termination authority and discretion of any state contracting agency when such contracting and procurement procedures represent best practices; (8) include a process to improve contractor and state contracting agency accountability; (9) include standards by which state contracting agencies must evaluate proposals to privatize state or quasi-public agency services and privatization contract bid proposals, such standards shall, at a minimum, include: (A) A requirement for a comparative costs analysis to be completed prior to any state or quasi-public agency decision to privatize services, (B) adequate notification requirements to affected employees and, where applicable, certified bargaining agents, (C) a requirement for the preparation of an employee impact statement including measures to be taken by the bidder to retain qualified state and quasi-public agency employees, (D) a provision requiring state agencies and quasi-public agencies to provide adequate information and resources to their employees for the purpose of encouraging and assisting such state or quasi-public employees to organize and submit a bid to provide the services that are the subject of such privatization contract, (E) a requirement that bidders disclose all relevant information pertaining to past performance, pending or concluded legal or regulatory proceedings or complaints, including, but not limited to, compliance with fair employment practices and nondiscrimination standards, as described in section 46a-60 of the general statutes, and compliance with federal fair employment and

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nondiscrimination standards, and (F) provisions for a fair wage according to objective standards, such as that provided in subdivision (4) of subsection (a) of section 14 of this act; (10) establish standards for leases and lease-purchase agreements and for the purchase and sale of real estate; and (11) provide a process for competitive sealed bids, competitive sealed proposals, small purchases, sole source procurements, emergency procurements, special procurements, best value selection, qualification based selection and the conditions for their use.

(c) In preparing the uniform procurement code described in subsection (a) of this section, the State Contracting Standards Board shall conduct a comprehensive review of existing state contracting and procurement laws, regulations and practices and shall utilize existing procurement procedures and guidelines that the board deems appropriate.

(d) Upon request by the State Contracting Standards Board, each state contracting agency engaged in procurement shall provide the board, in a timely manner, with such procurement information as the board deems necessary. The board shall have access to all information, files and records related to any state contracting agency in furtherance of this purpose. Nothing in this section shall be construed to require the board's disclosure of documents that are exempt from disclosure pursuant to chapter 14 of the general statutes or that may be protected from disclosure under claim of an attorney-client privilege.

(e) Such uniform procurement code shall be submitted to the General Assembly for its approval. The board shall file such code with the clerks of the House of Representatives and the Senate not later than January 15, 2007, and not later than January 20, 2007, the speaker of the House of Representatives and the president pro tempore of the Senate shall submit such code to the joint standing committee of the General Assembly having cognizance of matters relating to government

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administration and elections. Said committee shall hold a public hearing on such code and shall report its recommendations, including any changes thereto, to the House of Representatives and the Senate concerning the approval or rejection of the code. The General Assembly shall take a vote on such code not later than the end of the 2007 regular session.

Sec. 4. (NEW) (*Effective July 1, 2007*) In addition to the preparation of the uniform procurement code described in section 3 of this act, the duties of the State Contracting Standards Board shall include:

(1) Recommending the repeal of repetitive, conflicting or obsolete statutes concerning state procurement;

(2) Developing, publishing and maintaining the uniform procurement code for all state contracting agencies;

(3) Assisting state contracting agencies in complying with the code by providing guidance, models, advice and practical assistance to state contracting agency staff relating to: (A) Buying the best service at the best price, (B) properly selecting contractors, and (C) drafting contracts that achieve state goals and protect taxpayers' interest;

(4) Reviewing and certifying that a state contracting agency's procurement processes are in compliance with the code;

(5) Triennially, recertifying each state contracting agency's procurement processes and providing agencies with notice of any certification deficiency and exercising authority as provided under section 6 of this act if a determination of noncompliance is made;

(6) Defining the training requirements for state contracting agency procurement professionals;

(7) Monitoring implementation of the state contracting portal and

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making recommendations for improvement to the Department of Administrative Services;

(8) Defining the contract data retention requirements for state agencies concerning retention of information on: (A) The number and type of state contracts currently in effect state-wide, (B) the dollar value of such contracts, (C) a list of client agencies, (D) a description of services purchased under such contracts, (E) contractor names, and (F) an evaluation of contractor performance, and assuring such information is available on the state contracting portal;

(9) Providing the Governor and the joint standing committee of the General Assembly having cognizance of matters relating to government administration and elections with recommendations concerning the uniform procurement code; and

(10) Approving an ethics training course for state employees involved in procurement and for state contractors and substantial subcontractors who are prequalified pursuant to the provisions of section 4a-100 of the general statutes, as amended by this act. Such ethics training course may be developed and provided by the State Ethics Commission or by any person, firm or corporation provided such course is approved by the State Contracting Standards Board.

Sec. 5. (NEW) (*Effective October 1, 2007*) (a) The State Contracting Standards Board shall triennially conduct audits of state contracting agencies to ensure compliance with the uniform procurement code. In conducting such audit, the State Contracting Standards Board shall have access to all contracting and procurement records, may interview personnel responsible for contracting, contract negotiation or procurement and may enter into an agreement with the State Auditors of Public Accounts to effectuate such audit.

(b) Upon completion of any such audit, the State Contracting

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Standards Board shall prepare and issue a compliance report for such state contracting agency. Such report shall identify any process or procedure that is inconsistent with the uniform procurement code and indicate those corrective measures the board deems necessary to comply with code requirements. Such report shall be issued and delivered not later than thirty days after completion of such audit and shall be a public record.

(c) After notice and hearing, the State Contracting Standards Board may restrict the authority of any state contracting agency to enter into any contract or procurement agreement if the board, upon a vote of two-thirds of the members of the board present and voting for such purpose, determines that such state contracting agency failed to comply with statutory contracting and procurement requirements, and evidenced a reckless disregard for applicable procedures and policy and such limitation or restriction is in the state's best interest. Such limitation or restriction shall remain in effect until such time as the board determines that such state contracting agency has implemented corrective measures and demonstrated compliance with code requirements.

Sec. 6. (NEW) (*Effective October 1, 2007*) For cause, the State Contracting Standards Board may review or terminate any contract or procurement agreement undertaken by any state contracting agency after providing fifteen days notice to the state contracting agency and the applicable contractor, and consulting with the Attorney General. Such termination of a contract or procurement agreement by the board may occur only upon a vote of two-thirds of the members of the board present and voting for that purpose. Such action shall be accompanied by notice to the state contracting agency and any other affected party. For the purpose of this section, "for cause" means: (1) A violation of section 1-84, 1-86e or 4a-100 of the general statutes, as amended by this act, (2) wanton or reckless disregard of any state contracting and

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procurement process by any person substantially involved in such contract or state contracting agency, or (3) notification from the Attorney General to the state contracting agency that an investigation pursuant to section 4-61dd of the general statutes indicates that the process by which such contract was awarded was compromised by fraud, collusion or other serious ethical improprieties.

Sec. 7. (NEW) (*Effective October 1, 2007*) (a) After reasonable notice, a hearing and consultation with the relevant state contracting agency and the Attorney General, the State Contracting Standards Board may disqualify any contractor, for a period of up to five years, from bidding on, applying for, or participating as a subcontractor under, contracts with the state. Such disqualification shall be upon the vote of two-thirds of the members of the board present and voting for that purpose. Such hearing shall be conducted in accordance with chapter 54 of the general statutes. The board shall issue a written decision not later than ninety days after the conclusion of such hearing and state in the decision the reasons for the action taken and, if the contractor is being disqualified, the period of such disqualification. The existence of a cause for disqualification, as described in subsection (b) of this section, may not be the sole factor to be considered by the board in determining whether the contractor shall be disqualified. In determining whether to disqualify a contractor, the board shall consider the seriousness of the contractor's acts or omissions and any mitigating factors. The board shall send the decision to the contractor by certified mail, return receipt requested. The written decision shall be a final decision for purposes of sections 4-180 and 4-183 of the general statutes.

(b) Causes for such disqualification shall include the following:

(1) Conviction of, or entry of a plea of guilty or nolo contendere or admission to, the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or

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subcontract, or in the performance of such contract or subcontract;

(2) Conviction of, or entry of a plea of guilty or nolo contendere or admission to, the violation of any state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a state contractor;

(3) Conviction of, or entry of a plea of guilty or nolo contendere or admission to, a violation of any state or federal antitrust, collusion or conspiracy law arising out of the submission of bids or proposals on a public or private contract or subcontract;

(4) Accumulation of two or more suspensions pursuant to section 8 of this act within a twenty-four-month period;

(5) A wilful failure to perform in accordance with the terms of one or more contracts;

(6) A wilful violation of a statutory or regulatory provision or requirement applicable to a contract;

(7) A wilful or egregious violation of the ethical standards set forth in sections 1-84, 1-86e or 4a-100 of the general statutes, as amended by this act; or

(8) Any other cause the board determines to be so serious and compelling as to affect responsibility as a state contractor, including, but not limited to: (A) Disqualification by another state for cause, (B) the fraudulent, criminal or seriously improper conduct of any officer, director, shareholder or employee of such contractor, provided such conduct occurred in connection with the individual's performance of duties for or on behalf of such contractor and such contractor knew or had reason to know of such conduct, or (C) the existence of an

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informal or formal business relationship with a contractor who has been disqualified from bidding on state contracts.

(c) Upon written request by the affected state contractor, the State Contracting Standards Board may reduce the period or extent of disqualification for a contractor if documentation supporting any of the following reasons for modification is provided to the board by the contractor:

- (1) Newly discovered material evidence;
- (2) Reversal of the conviction upon which the disqualification was based;
- (3) Bona fide change in ownership or management; or
- (4) Elimination of other causes for which the disqualification was imposed.

Sec. 8. (NEW) (*Effective October 1, 2007*) (a) After reasonable notice and a hearing, conducted in accordance with the provisions of chapter 54 of the general statutes, a state contracting agency may suspend any contractor for a period of not more than six months from bidding on, applying for or performing work as a subcontractor under, contracts with the agency. The commissioner of any such state contracting agency shall issue a written decision not later than ninety days after the conclusion of such hearing and state in the decision the reasons for the action taken and, if the contractor is being suspended, the period of such suspension. The existence of a cause for suspension, as described in subsection (b) of this section, may not be the sole factor to be considered by the agency in determining whether the contractor shall be suspended. In determining whether to suspend a contractor, the state contracting agency shall consider the seriousness of the contractor's acts or omissions and any mitigating factors. The commissioner of the state contracting agency shall send such decision

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to the contractor by certified mail, return receipt requested. Such decision shall be a final decision for purposes of sections 4-180 and 4-183 of the general statutes.

(b) Causes for such suspension shall include the following:

(1) Failure without good cause to perform in accordance with specifications or within the time limits provided in the contract;

(2) A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension;

(3) Any cause the state contracting agency determines to be so serious and compelling as to affect the responsibility of a state contractor, including suspension by another state contracting agency for cause; or

(4) A violation of the ethical standards set forth in sections 1-84, 1-86e and 4a-100 of the general statutes, as amended by this act.

(c) The state contracting agency may grant an exception permitting a suspended contractor to participate in a particular contract or subcontract upon a written determination by the commissioner of the state contracting agency that there is good cause for such exception and that such exception is in the best interest of the state.

Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Any bidder on a state contract may contest the solicitation or award of a contract to the commissioner of the state agency that awarded such contract. Such contest shall be submitted, in writing, not later than fourteen days after such bidder knew or should have known of the facts giving rise to such contest and shall be limited to the procedural elements of the

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solicitation or award process, or claims of an unauthorized or unwarranted, noncompetitive selection process.

(b) The commissioner of such state contracting agency, or the commissioner's designee, shall have the authority to settle and resolve any such contest.

(c) In the event such contest is not resolved by mutual agreement, the commissioner of a state contracting agency, or the commissioner's designee, shall issue a decision, in writing, not later than thirty days after receipt of any such contest. Such decision shall:

(1) Describe the procedure used by such agency in soliciting and awarding such contract;

(2) Indicate such agency's finding as to the merits of such bidder's contest; and

(3) Inform such bidder of the right to review, as provided in section 10 of this act.

(d) A copy of such decision shall be provided to such bidder.

Sec. 10. (NEW) (*Effective October 1, 2007*) (a) Any bidder may appeal a decision issued by the commissioner of a state contracting agency, or the commissioner's designee, pursuant to subsection (c) of section 9 of this act to the State Contracting Standards Board.

(b) Any such request for review shall be filed with the board not later than fourteen days after such bidder's receipt of a decision issued pursuant to subsection (c) of section 9 of this act. Such bidder shall set forth the facts supporting its claim in sufficient detail for the State Contracting Standards Board to determine whether the procedural elements of the solicitation or award failed to comply with the code or whether an unauthorized or unwarranted, noncompetitive selection

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process was utilized.

(c) Any appeal filed pursuant to subsection (b) of this section shall not be deemed to prohibit the award or execution of any such contested contract.

(d) The State Contracting Standards Board shall create a three-member appeals review subcommittee, which shall review any request filed pursuant to subsection (b) of this section and decide whether such solicitation or award was in compliance with the code, and whether allegations of an unauthorized or unwarranted, noncompetitive selection process have been demonstrated. A unanimous vote of such subcommittee shall be dispositive of any such appeal. A split vote of such subcommittee shall result in a review of the appeal by the full membership of the board which, by a vote of two-thirds of its members present and voting for such purpose, shall decide whether the solicitation or award of such contract was in compliance with the code and whether allegations of an unauthorized or unwarranted, noncompetitive selection process have been demonstrated.

(e) Such appeals subcommittee shall issue a written decision or take other appropriate action on each appeal not later than ninety days after the filing of such appeal. A written copy of any such decision shall be provided to such bidder.

(f) In the event of an appeal review by the full board, the board shall issue a written decision or take other appropriate action on such appeal not later than ninety days after receipt of the appeal from the appeals subcommittee. A written copy of any such decision shall be provided to such bidder.

(g) In the event that the appeals subcommittee or the board determines that a procedural violation occurred, or that allegations of an unauthorized or unwarranted, noncompetitive selection process

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have been demonstrated, the board shall direct the state contracting agency to take corrective action not later than thirty days after the date of the subcommittee's or board's decision, as applicable.

(h) In the event such appeal is found to be frivolous by the appeals review subcommittee or the full board, such frivolous appeal may serve as a basis for disqualification pursuant to section 7 of this act.

(i) Any three members of the board may request a full board review of any contract deliberation or award process of a state contracting agency.

(j) A decision issued by the board or appeals subcommittee under this section shall be final and not subject to appeal under sections 4-180 and 4-183 of the general statutes.

Sec. 11. (NEW) (*Effective October 1, 2007*) There is established a Contracting Standards Advisory Council, which shall consist of nine state contracting agency representatives designated by the Governor, including at least one representative from each of the following: The Department of Administrative Services, the Department of Transportation and the Department of Public Works. The advisory council shall meet at least once a year to discuss problems with procurement processes and to make recommendations for improvements to the State Contracting Standards Board. The advisory council may conduct studies, research and analyses and make reports and recommendations with respect to subjects or matters within the jurisdiction of the State Contracting Standards Board.

Sec. 12. (NEW) (*Effective July 1, 2005*) (a) On and after October 1, 2007, the powers, duties, obligations and other governmental functions of the State Properties Review Board, established under subsection (a) of section 4b-3 of the general statutes, shall transfer to the State Contracting Standards Board, established under section 2 of this act.

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The powers, duties, obligations and other governmental functions of the State Properties Review Board, shall thereafter vest in the State Contracting Standards Board, in accordance with the provisions of sections 4-38d and 4-39 of the general statutes.

(b) On or before October 1, 2007, the State Contracting Standards Board shall establish a three-member subcommittee of the board to be known as the state properties review subcommittee to perform the duties described under subsection (a) of this section. The subcommittee shall perform the duties established under subsection (a) of this section in accordance with the rules and procedures established by the board pursuant to subsection (i) of section 2 of this act. The State Contracting Standards Board shall constitute a successor department to the State Properties Review Board in accordance with the provisions of sections 4-38d and 4-39 of the general statutes.

Sec. 13. Subsection (i) of section 4b-91 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(i) [In the event that the] The General Assembly [approves] may approve legislation authorizing an exception to the competitive bidding process for a project, provided such legislation is approved, in whole, by a two-thirds vote of the members of each house of the General Assembly. If rejected, the legislation proposing an exception for such project shall not be valid and shall not be implemented. The legislation shall be deemed rejected if the General Assembly fails to vote to approve or reject the legislation (1) prior to the adjournment of the regular session of the General Assembly during which the legislation is filed, (2) prior to the adjournment of the next regular session of the General Assembly following the date on which the legislation is filed if the General Assembly is not in regular session on such date, or (3) prior to the adjournment of a special session convened before the next regular session of the General Assembly for the

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purpose of considering the legislation if the General Assembly is not in regular session on the date on which the legislation is filed. However, if the legislation is filed less than thirty days before the end of a regular session, the General Assembly may vote to approve or reject the legislation (A) not later than thirty days after the first day of a special session convened before the next regular session of the General Assembly for the purpose of considering the legislation, or (B) not later than thirty days after the first day of the next regular session of the General Assembly. In the event that the General Assembly approves legislation authorizing an exception to the competitive bidding process for a project, the State Properties Review Board shall complete a review of the contract for such project and approve or disapprove such contract no later than thirty days after the Commissioner of Public Works submits such contract to the board. Such review shall be conducted in accordance with the provisions of section 4b-3. On and after October 1, 2007, such review shall be conducted by the subcommittee of the State Contracting Standards Board established under subsection (b) of section 12 of this act. In the event that such review does not occur within the thirty-day period prescribed by this subsection, such contract shall be deemed to be approved.

Sec. 14. (NEW) (*Effective from passage*) (a) From the effective date of this section, until June 30, 2007, no state agency may enter into a privatization contract. From June 30, 2007, until July 1, 2009, any privatization contract entered into by a state agency shall include the following provisions:

(1) The contractor shall offer available employee positions pursuant to the contract to qualified regular employees of the agency whose state employment is terminated because of such privatization contract provided such employees satisfy the hiring criteria of the contractor;

(2) The contractor shall not engage in discriminatory employment practices, as described in section 46a-60 of the general statutes, and

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shall take affirmative steps to provide such equal opportunity for all such persons;

(3) The contractor shall submit to performance audits of such contract by the Auditors of Public Accounts on a periodic basis, as determined by the Auditors of Public Accounts;

(4) The contractor shall pay a minimum wage rate for employee positions with duties that are substantially similar to the duties performed by a regular agency, which rate shall be the lesser of step one of the grade or classification under which the comparable regular agency employee is paid, or the standard private sector wage rate for said position as determined by the Labor Commissioner in accordance with section 31-57f of the general statutes;

(5) Such contract shall not become effective until the contractor and the state agency have complied with the provisions of this act and the procurement code adopted in accordance with section 3 of this act;

(6) The contractor shall submit quarterly payroll records to the Labor Department, listing the name, address, Social Security number, hours worked and the hourly wage paid for each employee in the previous quarter;

(7) Nothing in this section shall be construed to prohibit families and individuals from using their Family Support Grants for the development of new residential and day services beyond the current level of services on January 1, 2006, when such residential and day services are designed exclusively to serve individuals identified on the Department of Mental Retardation waiting list as of January 1, 2006.

(b) Such state agency shall submit such contract to the State Contracting Standards Board who shall maintain such contract as a public document. Such state agency shall simultaneously submit to the board the following information:

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(1) A certification that the state agency has complied with all the requirements of the state agency contained in this act, and that the privatization contract meets the standards for such contracts under the procurement code adopted in accordance with section 3 of this act;

(2) A state agency analysis of the quality of the services to be provided by the designated bidder for the purpose of assuring that the quality of services provided by the bidder will not be less than that provided by regular agency employees;

(3) A certification by the designated bidder that the bidder and its supervisory employees, while in the employ of the designated bidder, have no adjudicated record of repeated wilful noncompliance with any relevant federal or state regulatory law including, but not limited to, laws concerning labor relations, occupational safety and health, nondiscrimination and affirmative action, environmental protection and conflicts of interest; and

(4) A description of why the proposed privatization contract is in the public interest.

(c) Any employees, or collective bargaining agent of any employee adversely affected by any proposed privatization contract filed with the board may file a motion for an order to show cause in the superior court for the judicial district of Hartford claiming that such contract fails to comply with the substantive or procedural requirements of this act. A ruling on any such motion may: (1) Deny the motion, if the court finds that all procedural and substantive provisions of this act have been complied with; (2) grant the motion if the court finds that the proposed contract would substantively violate the provisions of this act; or (3) stay the effective date of the contract until any procedural or substantive defect found by the court has been corrected.

(d) (1) Notwithstanding the provisions of subsection (a) of this

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section, in the event that the uniform procurement code required by section 3 of this act is approved by the General Assembly and signed into law on or before June 30, 2007, the provisions of subsections (a) and (b) of this section shall no longer apply to any privatization contract executed in accordance with such uniform procurement code.

(2) Notwithstanding the provisions of subsection (a) of this section, in the event that the uniform procurement code required by section 3 of this act is not approved by the General Assembly, on or before June 30, 2007, the provisions of subsections (a) and (b) of this section shall not apply to any privatization contract approved by a two-thirds vote of the membership of the Contracting Standards Board.

(3) Notwithstanding the provisions of subsection (a) of this section, in the event that the uniform procurement code required by section 3 of this act is approved by the General Assembly but not signed into law on or before June 30, 2007, no state agency may enter into a privatization contract from June 30, 2007, to July 1, 2009, unless a uniform procurement code is approved by the General Assembly and signed into law during such period of time or such contract constitutes an emergency procurement, as defined in section 1 of this act.

Sec. 15. (NEW) (*Effective from passage*) The Office of Policy and Management shall establish procedures for use by state agencies when entering purchase of service agreements that shall provide for the payment of fifty per cent of any unexpended funds allocated for such contract to the contracting nonprofit agency, partnership or corporation at the end of such contract, provided the services rendered under such contract meet the contracted requirements for number, type and quality of services and there is either an agreed upon price for such services, a set cost for such services or a flat grant for an agreed upon level of services.

Sec. 16. (NEW) (*Effective from passage*) (a) Notwithstanding any

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provision of the general statutes, any contract for legal services between a state agency and any person, firm or corporation that is entered into on or after January 1, 2006, and that will or that can reasonably be expected to result in attorney's fees, including, but not limited to, contingent fees paid to such person, firm or corporation in the amount of two hundred fifty thousand dollars or more shall be subject to requests for proposals or requests for qualifications and negotiation procedures.

(b) Not later than October 1, 2005, the Attorney General shall establish requests for proposals or requests for qualifications and negotiation procedures for use by any state agency to enter into a contract described in subsection (a) of this section.

(c) No contract described in subsection (a) of this section shall be valid without the prior approval of the substance and form of such contract by the Attorney General.

Sec. 17. Section 4a-100 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

(a) As used in this section: (1) "Prequalification" means prequalification issued by the Commissioner of Administrative Services to bid on a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality or to perform work under such a contract as a substantial subcontractor; (2) "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars; (3) "principals and key personnel" includes officers, directors, shareholders, members, partners and managerial employees; (4) "aggregate work capacity rating" means the maximum amount of work an applicant is capable of undertaking for any and all

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projects; [and] (5) "single project limit" means the highest estimated cost of a single project that an applicant is capable of undertaking; (6) "substantial subcontractor" means a person who performs work with a value in excess of five hundred thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars.

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

(2) The application fee shall be as follows:

Aggregate Work Capacity Rating	Fee
\$5,000,000.00 or less	\$600.00
\$5,000,000.01 - \$8,000,000.00	\$750.00
\$8,000,000.01 - \$10,000,000.00	\$850.00
\$10,000,000.01 - \$15,000,000.00	\$1,000.00
\$15,000,000.01 - \$20,000,000.00	\$1,500.00
\$20,000,000.01 - \$40,000,000.00	\$2,000.00
\$40,000,000.01 or more	\$2,500.00

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

(1) The applicant's form of organization;

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

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

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

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

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

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

(d) The applicant shall include a statement of financial condition

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prepared by a certified public accountant which includes information concerning the applicant's assets and liabilities, plant and equipment, bank and credit references, bonding company and maximum bonding capacity, and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility.

(e) Information contained in the application shall be current as of the time of filing except that the statement of financial condition shall pertain to the applicant's most recently-completed fiscal year.

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

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ratings shall be used to establish the maximum amount of work a contractor or substantial subcontractor is capable of undertaking.

(g) (1) The applicant shall indicate the prequalification classifications, aggregate work capacity ratings and single project limits that are sought. The commissioner may issue a certificate of prequalification to any applicant who meets the requirements of this section. Such certificate shall be effective for one year from the date issued and shall indicate the contractor's or substantial subcontractor's prequalification classifications, aggregate work capacity ratings and single project limits. The commissioner may cause the initial certificate of prequalification to be effective for a period not to exceed two years and may require the applicant to remit payment of the application fee, as set forth in subsection (b) of this section, for the first twelve months of certification as well as a prorated application fee, as described in subdivision (3) of this subsection, for any additional period of certification beyond the first twelve months.

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

(3) The commissioner may renew a prequalification certificate upon receipt of a completed update statement, any other material the commissioner requires and a nonrefundable fee in an amount [equal to] not less than one-half of the application fee for the applicable aggregate work capacity rating as set forth in subsection (b) of this section. [, except that in no event shall such fee be less than six hundred dollars.]

(h) Not later than sixty days after receiving a completed application, the commissioner shall mail or send by electronic mail a notice to the

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applicant concerning the commissioner's preliminary determination regarding the conditions of the prequalification certification, a denial of certification, a reduction in the level of certification sought or nonrenewal of certification. Any applicant aggrieved by the commissioner's preliminary determination may request copies of the information upon which the commissioner relied in making the preliminary determination, provided such request is made not later than ten days after the date the notice was mailed or sent by electronic mail to the applicant. Not later than twenty days after the date the notice was mailed or sent by electronic mail, the applicant may submit additional information to the commissioner with a request for reconsideration. The commissioner shall issue a final determination regarding the application not later than ninety days after the date the commissioner mailed or sent by electronic mail the notice of the preliminary determination, which ninety-day period may be extended for an additional period not to exceed ninety days if (1) the commissioner gives written notice to the applicant that the commissioner requires additional time, and (2) such notice is mailed or sent by electronic mail during the initial ninety-day period.

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

(j) The commissioner may revoke a contractor's or substantial subcontractor's prequalification or reduce the contractor's or

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substantial subcontractor's prequalification classification or aggregate work capacity ratings, after an opportunity for a hearing, if the commissioner receives additional information that supports such revocation or reduction or if such contractor is suspended from bidding on a state contract pursuant to the provisions of section 8 of this act.

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

(2) The commissioner shall revoke the prequalification of any person, after an opportunity for hearing, if the commissioner finds that the person has included any materially false statement in such application or update statement, has been convicted of a crime related to the procurement or performance of any public or private construction contract has been disqualified by the State Contracting Standards Board from bidding on state contracts pursuant to section 7 of this act or, within the past five years or has otherwise engaged in fraud in obtaining or maintaining prequalification. Any person whose prequalification has been revoked pursuant to this subsection shall be disqualified for a period of two years after which the person may reapply for prequalification, except that a person whose prequalification has been revoked on the basis of conviction of a crime or engaging in fraud shall be disqualified for a period of five years after which the person may reapply for prequalification and a person whose prequalification has been revoked on the basis of

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disqualification by the State Contracting Standards Board shall be disqualified for the same length of time as the disqualification period imposed by the State Contracting Standards Board pursuant to section 7 of this act. The commissioner shall not prequalify a person whose prequalification has been revoked pursuant to this subdivision until the expiration of said [two or] two-year, five-year, or other applicable disqualification period and the commissioner is satisfied that the matters that gave rise to the revocation have been eliminated or remedied.

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

(m) The provisions of this section and section 4a-101 shall not apply to subcontractors.

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

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

(p) Not later than one hundred twenty days after becoming prequalified, any contractor or substantial subcontractor prequalified under the provisions of this section shall participate in an ethics training course approved by the State Contracting Standards Board

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pursuant to section 4 of this act.

(q) The commissioner shall adopt regulations, in accordance with chapter 54, to establish a schedule of application fees for substantial subcontractors.

Sec. 18. Section 4a-101 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

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

(b) Each public agency shall compile evaluation information during the performance of the contract and complete and submit the evaluation form to the commissioner after completion of a building project under the agency's control if the building project is funded, in whole or in part, by state funds. Such evaluation information shall be

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available to any public agency for purposes of assessing the responsibility of the contractor during a bid selection and evaluation process. The designated official from such agency shall certify that the information contained in the evaluation form represents, to the best of the certifying official's knowledge, a true and accurate analysis of the contractor's performance record on the contract. The commissioner shall include the evaluation in the contractor's prequalification file. The official shall mail a copy of the completed evaluation form to the contractor. Any contractor who wishes to contest any information contained in the evaluation form may submit a written response to the commissioner not later than thirty days after the date the form was mailed as indicated by the postmark on the envelope. Such response shall set forth any additional information concerning the building project or the oversight of the contract by the public agency that may be relevant in the evaluation of the contractor's performance on the project. The commissioner shall include any such response in the contractor's prequalification file.

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

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

(e) No public agency, employee of a public agency or certifying official of a public agency shall be held liable to any contractor for any

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loss or injury sustained by such contractor as the result of the completion of an evaluation form, as required by this section, unless such agency, employee or official is found by a court of competent jurisdiction to have acted in a wilful, wanton or reckless manner.

(f) Any public agency that fails to submit a completed evaluation form, as required by this section, not later than seventy days after the completion of a project, shall be ineligible for the receipt of any public funds disbursed by the state for the purposes of the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any public works project until such completed evaluation form is submitted.

(g) Notwithstanding the provisions of subsection (a) of this section, any political subdivision of the state, when evaluating the performance of a contractor's subcontractors or substantial subcontractors, to the extent known, may rely on an evaluation of such subcontractors or substantial subcontractors that is conducted by the contractor.

Sec. 19. Section 4b-91 of the general statutes is amended by adding subsection (j) as follows (*Effective January 1, 2006*):

(NEW) (j) On and after January 1, 2006, no person whose subcontract exceeds five hundred thousand dollars in value may perform work as a subcontractor, except for a project described in subdivision (2) of subsection (a) of this section, for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality, which is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, unless the person is prequalified in accordance with section 4a-100, as amended by this act.

Sec. 20. Section 4b-56 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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(a) There shall be established within the Department of Public Works [a] State Construction Services Selection [Panel] Panels which shall consist of five members. Four of such members shall be appointed by the commissioner, shall be current or retired employees of the Department of Public Works and shall serve for [terms of one year from July first] deliberations involving the project for which such member was appointed. The remaining member shall be appointed by the head or acting head of the user agency and shall serve only for deliberations involving the project for which [he] such member was appointed. [If any vacancy occurs on the panel, the commissioner shall appoint a person for the unexpired term in accordance with the provisions of this subsection.]

(b) The selection panel shall not be deemed to be a board or commission within the meaning of section 4-9a.

(c) There shall be established within the Department of Public Works [a] Connecticut Health and Education Facilities Authority Construction Services [Panel] Panels which shall consist of five members: Three of whom shall be appointed by the Commissioner of Public Works, who shall serve only for deliberations involving the project for which such member was appointed and shall be current employees of the Department of Public Works; and the remaining members shall be appointed by the head or acting head of the user agency and shall serve only for deliberations involving the project for which such member was appointed. [The members of the selection panel appointed by the Commissioner of Public Works shall serve for terms of one year from July first. If any vacancy occurs on the panel, the Commissioner of Public Works or the head or acting head of the user agency, as appropriate, shall appoint a person for the unexpired term in accordance with the provisions of this subsection.]

(d) The panel established pursuant to subsection (c) of this section shall not be deemed to be a board or commission within the meaning

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of section 4-9a. Such panel shall be the selection panel only for Connecticut Health and Education Facilities Authority projects pursuant to section 10a-89b.

Sec. 21. Subsections (a) and (b) of section 4b-100a of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Department of Public Works shall establish construction services award panels which shall each consist of six members: Three of whom shall be appointed by the Commissioner of Public Works, [and shall] be current employees of the Department of Public Works and serve only for deliberations involving the project for which such member was appointed; two of whom shall be appointed by the department head of the user agency; and one of whom who shall be a neutral party appointed by the commissioner. [The members of each award panel appointed by the Commissioner of Public Works shall serve for terms of one year from July first. If any vacancy occurs on the panel, the Commissioner of Public Works or the head or acting head of the user agency, as appropriate, shall appoint a person for the unexpired term in accordance with the provisions of this subsection.]

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

Sec. 22. Subsection (b) of section 4b-91 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The Commissioner of Public Works, the joint committee or the

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constituent unit, as the case may be, shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be made within [sixty] one hundred twenty days after the opening of such bids. If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to the amount specified in the general bid form, an award shall be made to the next lowest responsible and qualified general bidder. No employee of the Department of Public Works, the joint committee or a constituent unit with decision-making authority concerning the award of a contract and no public official, as defined in section 1-79, may communicate with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract that is not available to other bidders, except that if the lowest responsible and qualified bidder's price submitted is in excess of funds available to make an award, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with such bidder and award the contract on the basis of the funds available, without change in the contract specifications, plans and other requirements. If the award of a contract on said basis is refused by such bidder, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with other contractors who submitted bids in ascending order of bid prices without change in the contract, specifications, plans and other requirements. In the event of negotiation with general bidders as provided in this section, the general bidder involved may negotiate with subcontractors on the same basis, provided such general bidder shall negotiate only with subcontractors named on such general bidder's general bid form.

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Sec. 23. (NEW) (*Effective October 1, 2005*) (a) This section shall be known as the "Anthony J. Tercyak Act".

(b) The Department of Administrative Services shall require any publicly traded corporation that seeks to do business with the state to certify in an affidavit that such company is not a company that: (1) Conducted business in the United States, (2) was previously incorporated within the United States' territorial limits, (3) reincorporated outside the United States' territorial limits on or after July 1, 2005, and (4) as a result of such reincorporation outside the United States' territorial limits, has received a reduction in federal or Connecticut tax liability.

(c) The state may not enter into any contract with any publicly traded company that does not deny such reincorporation in a sworn affidavit, except that the Attorney General may waive such prohibition if the services sought by the state are not available from a company that is incorporated in the United States or if waiver of such prohibition is in the best interest of the state.

Sec. 24. (NEW) (*Effective October 1, 2005*) (a) As used in this section:

(1) "Fixture" means the assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror and a refractor or lens;

(2) "Full cut-off luminaire" means a luminaire that allows no direct light emissions above a horizontal plane through the luminaire's lowest light-emitting part;

(3) "Glare" means direct light emitting from a luminaire that causes reduced vision or momentary blindness;

(4) "Illuminance" means the level of light measured at a surface;

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(5) "Lamp" means the component of a luminaire that produces the light;

(6) "Light trespass" means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located;

(7) "Lumen" means a unit of measurement of luminous flux;

(8) "Luminaire" means the complete lighting unit, including the lamp and the fixture;

(9) "Permanent outdoor luminaire" means any luminaire or system of luminaires that is outdoors and intended to be used for seven days or longer; and

(10) "State funds" means any bond revenues or any money appropriated or allocated by the General Assembly.

(b) Except as provided in subsection (c) of this section, no state funds shall be used to install or replace a permanent outdoor luminaire for lighting on the grounds of any state building or facility unless (1) the luminaire is designed to maximize energy conservation and to minimize light pollution, glare and light trespass, (2) the luminaire's illuminance is equal to the minimum illuminance adequate for the intended purpose of the lighting, and (3) for a luminaire with a rated output of more than one thousand eight hundred lumens, such luminaire is a full cut-off luminaire.

(c) The provisions of subdivision (3) of subsection (b) of this section shall not apply to luminaires located on the grounds of any correctional institution or facility administered by the Commissioner of Correction, required by federal regulations, required for storm operation activities performed by the Department of Transportation, or in a lighting plan for a Department of Transportation facility where

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less than twenty-five per cent of the luminaires are to be replaced. The Commissioner of Public Works, or the commissioner's designee, may waive the provisions of subdivision (3) of subsection (b) of this section with respect to luminaires on the grounds of any other state building or facility when, after a request for such a waiver has been made and reviewed, the commissioner or the commissioner's designee determines that such a waiver is necessary for the lighting application. Requests for such a waiver shall be made to the commissioner or the commissioner's designee in such form as the commissioner shall prescribe and shall include, without limitation, a description of the lighting plan, a description of the efforts that have been made to comply with the provisions of subdivision (3) of subsection (b) of this section and the reasons such a waiver is necessary. In reviewing a request for such a waiver, the commissioner or the commissioner's designee shall consider design safety, costs and other factors deemed appropriate by the commissioner or the commissioner's designee.

(d) The provisions of this section shall not apply to the installation or replacement of luminaires for which the Secretary of the Office of Policy and Management (1) conducts a life-cycle cost analysis of one or more luminaires that meet the requirements set forth in subsection (b) of this section and one or more luminaires that do not meet such requirements, and (2) certifies that a luminaire which meets such requirements is not cost effective and is not the most appropriate alternative based on the life-cycle cost analysis.

Sec. 25. Subsection (d) of section 13a-143d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) [Any] All luminaire in violation of any provision of subsection (b) or (c) of this section operating prior to October 1, [2003] 2004, shall be brought into compliance with the requirements in subsection (b) of this section [no later than October 1, 2005] in accordance with the

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following schedule: Approximately twenty per cent by October 1, 2005, approximately forty per cent by October 1, 2006, approximately sixty per cent by October 1, 2007, approximately eighty per cent by October 1, 2008, and one hundred per cent by October 1, 2009.

Sec. 26. Subdivision (1) of section 1-92 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(1) Adopt regulations in accordance with chapter 54 to carry out the purposes of this part. Not later than January 1, 1992, the commission shall adopt regulations which further clarify the meaning of the terms "directly and personally received" and "major life event", as used in subsection (e) of section 1-79 and subsection (g) of section 1-91. The commission shall adopt regulations that further clarify the meaning of the term "directly or indirectly involved in any enterprise", as used in section 2 of this act.

Sec. 27. (NEW) (*Effective July 1, 2005*) (a) On or before January 1, 2007, the Judicial Branch shall prepare a procurement code applicable to its contracting expenditures, including, but not limited to, expenditures: (1) Involving its contracting and procurement processes, including, but not limited to, purchasing or leasing of supplies, materials or equipment, consultant or consultant services, personal service agreements or purchase of service agreements, and (2) relating to contracts for the renovation, alteration or repair of any Judicial Branch facility in accordance with section 4b-1 of the general statutes.

(b) The procurement code described in subsection (a) of this section shall be designed to: (1) Establish uniform contracting standards and practices; (2) simplify and clarify contracting standards and procurement policies and practices, including, but not limited to, procedures for competitive sealed bids, competitive sealed proposals, small purchases, sole source procurements, emergency procurements

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and special procurements; (3) ensure the fair and equitable treatment of all businesses and persons who deal with the procurement system; (4) include a process to maximize the use of small contractors and minority business enterprises, as defined in section 4a-60g of the general statutes; (5) provide increased economy in procurement activities and maximize purchasing value to the fullest extent possible; (6) ensure that the procurement of supplies, materials, equipment, services, real property and construction is obtained in a cost-effective and responsive manner; (7) include a process to ensure contractor and Judicial Department accountability; and (8) provide a process for competitive sealed bids, competitive sealed proposals, small purchases, sole source procurements, emergency procurements, special procurements, best value selection, qualification based selection and the conditions for their use.

(c) On or before February 1, 2007, the Judicial Branch shall submit such procurement code for review and approval to the joint standing committee of the General Assembly having cognizance of matters relating to the Judicial Branch.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, the Judicial Branch shall be subject to the requirements of section 14 of this act.

Sec. 28. Section 1-210 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-

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212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void. Each such agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located or of the Secretary of the State, as the case may be. Any certified record hereunder attested as a true copy by the clerk, chief or deputy of such agency or by such other person designated or empowered by law to so act, shall be competent evidence in any court of this state of the facts contained therein. Each such agency shall make, keep and maintain a record of the proceedings of its meetings.

(b) Nothing in the Freedom of Information Act shall be construed to require disclosure of:

(1) Preliminary drafts or notes provided the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure;

(2) Personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy;

(3) Records of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of (A) the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known, (B) signed statements of witnesses, (C) information to be used in a prospective law enforcement action if

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prejudicial to such action, (D) investigatory techniques not otherwise known to the general public, (E) arrest records of a juvenile, which shall also include any investigatory files, concerning the arrest of such juvenile, compiled for law enforcement purposes, (F) the name and address of the victim of a sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or impairing of morals under section 53-21, or of an attempt thereof, or (G) uncorroborated allegations subject to destruction pursuant to section 1-216;

(4) Records pertaining to strategy and negotiations with respect to pending claims or pending litigation to which the public agency is a party until such litigation or claim has been finally adjudicated or otherwise settled;

(5) (A) Trade secrets, which for purposes of the Freedom of Information Act, are defined as information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, or customer lists that (i) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy; and

(B) Commercial or financial information given in confidence, not required by statute;

(6) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examinations;

(7) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by an agency relative to the

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acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned, provided the law of eminent domain shall not be affected by this provision;

(8) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish the applicant's personal qualification for the license, certificate or permit applied for;

(9) Records, reports and statements of strategy or negotiations with respect to collective bargaining;

(10) Records, tax returns, reports and statements exempted by federal law or state statutes or communications privileged by the attorney-client relationship;

(11) Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age, provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance, as the case may be, of the town wherein the student resides for the purpose of verifying tuition payments made to such school;

(12) Any information obtained by the use of illegal means;

(13) Records of an investigation or the name of an employee providing information under the provisions of section 4-61dd;

(14) Adoption records and information provided for in sections 45a-

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746, 45a-750 and 45a-751;

(15) Any page of a primary petition, nominating petition, referendum petition or petition for a town meeting submitted under any provision of the general statutes or of any special act, municipal charter or ordinance, until the required processing and certification of such page has been completed by the official or officials charged with such duty after which time disclosure of such page shall be required;

(16) Records of complaints, including information compiled in the investigation thereof, brought to a municipal health authority pursuant to chapter 368e or a district department of health pursuant to chapter 368f, until such time as the investigation is concluded or thirty days from the date of receipt of the complaint, whichever occurs first;

(17) Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act, 20 USC 1232g;

(18) Records, the disclosure of which the Commissioner of Correction, or as it applies to Whiting Forensic Division facilities of the Connecticut Valley Hospital, the Commissioner of Mental Health and Addiction Services, has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction or Whiting Forensic Division facilities. Such records shall include, but are not limited to:

(A) Security manuals, including emergency plans contained or referred to in such security manuals;

(B) Engineering and architectural drawings of correctional institutions or facilities or Whiting Forensic Division facilities;

(C) Operational specifications of security systems utilized by the Department of Correction at any correctional institution or facility or

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Whiting Forensic Division facilities, except that a general description of any such security system and the cost and quality of such system may be disclosed;

(D) Training manuals prepared for correctional institutions and facilities or Whiting Forensic Division facilities that describe, in any manner, security procedures, emergency plans or security equipment;

(E) Internal security audits of correctional institutions and facilities or Whiting Forensic Division facilities;

(F) Minutes or recordings of staff meetings of the Department of Correction or Whiting Forensic Division facilities, or portions of such minutes or recordings, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;

(G) Logs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities; and

(H) Records that contain information on contacts between inmates, as defined in section 18-84, and law enforcement officers;

(19) Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. Such reasonable grounds shall be determined (A) with respect to records concerning any executive branch agency of the state or any municipal, district or regional agency, by the Commissioner of Public Works, after consultation with the chief executive officer of the agency; (B) with respect to records concerning Judicial Department facilities,

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by the Chief Court Administrator; and (C) with respect to records concerning the Legislative Department, by the executive director of the Joint Committee on Legislative Management. As used in this section, "government-owned or leased institution or facility" includes, but is not limited to, an institution or facility owned or leased by a public service company, as defined in section 16-1, a certified telecommunications provider, as defined in section 16-1, a water company, as defined in section 25-32a, or a municipal utility that furnishes electric, gas or water service, but does not include an institution or facility owned or leased by the federal government, and "chief executive officer" includes, but is not limited to, an agency head, department head, executive director or chief executive officer. Such records include, but are not limited to:

- (i) Security manuals or reports;
- (ii) Engineering and architectural drawings of government-owned or leased institutions or facilities;
- (iii) Operational specifications of security systems utilized at any government-owned or leased institution or facility, except that a general description of any such security system and the cost and quality of such system, may be disclosed;
- (iv) Training manuals prepared for government-owned or leased institutions or facilities that describe, in any manner, security procedures, emergency plans or security equipment;
- (v) Internal security audits of government-owned or leased institutions or facilities;
- (vi) Minutes or records of meetings, or portions of such minutes or records, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;

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(vii) Logs or other documents that contain information on the movement or assignment of security personnel at government-owned or leased institutions or facilities;

(viii) Emergency plans and emergency recovery or response plans; and

(ix) With respect to a water company, as defined in section 25-32a, that provides water service: Vulnerability assessments and risk management plans, operational plans, portions of water supply plans submitted pursuant to section 25-32d that contain or reveal information the disclosure of which may result in a security risk to a water company, inspection reports, technical specifications and other materials that depict or specifically describe critical water company operating facilities, collection and distribution systems or sources of supply;

(20) Records of standards, procedures, processes, software and codes, not otherwise available to the public, the disclosure of which would compromise the security or integrity of an information technology system;

(21) The residential, work or school address of any participant in the address confidentiality program established pursuant to sections 54-240 to 54-240o, inclusive; and

(22) Responses to any procurement requests for proposals by a public agency and any records or files made in connection with a contract award process by any public agency until the contract is awarded or until negotiations for the award of such contract have ended, whichever occurs first, provided the chief officer of such public agency certifies that the public interest in disclosure of such responses, records or files is outweighed by the public interest in confidentiality of such responses, records or files.

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(c) Whenever a public agency receives a request from any person confined in a correctional institution or facility or a Whiting Forensic Division facility, for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction or the Commissioner of Mental Health and Addiction Services in the case of a person confined in a Whiting Forensic Division facility of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution or facility or Whiting Forensic Division facility.

(d) Whenever a public agency, except the Judicial Department or Legislative Department, receives a request from any person for disclosure of any records described in subdivision (19) of subsection (b) of this section under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Public Works of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act and for information related to a water company, as defined in section 25-32a, the public agency shall promptly notify the water company before complying with the request as required by the Freedom of Information Act. If the commissioner, after consultation with the chief executive officer of the applicable agency or after consultation with the chief executive officer of the applicable water company for information related to a water company, as defined in section 25-32a, believes the requested record is exempt from disclosure pursuant to subdivision (19) of subsection (b) of this section, the commissioner may direct the agency to withhold such record from such person. In any appeal brought under the provisions of section 1-

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206 of the Freedom of Information Act for denial of access to records for any of the reasons described in subdivision (19) of subsection (b) of this section, such appeal shall be against the Commissioner of Public Works, exclusively, or, in the case of records concerning Judicial Department facilities, the Chief Court Administrator or, in the case of records concerning the Legislative Department, the executive director of the Joint Committee on Legislative Management.

(e) Notwithstanding the provisions of subdivisions (1) and (16) of subsection (b) of this section, disclosure shall be required of:

(1) Interagency or intra-agency memoranda or letters, advisory opinions, recommendations or any report comprising part of the process by which governmental decisions and policies are formulated, except disclosure shall not be required of a preliminary draft of a memorandum, prepared by a member of the staff of a public agency, which is subject to revision prior to submission to or discussion among the members of such agency;

(2) All records of investigation conducted with respect to any tenement house, lodging house or boarding house as defined in section 19a-355, or any nursing home, residential care home or rest home, as defined in section 19a-490, by any municipal building department or housing code inspection department, any local or district health department, or any other department charged with the enforcement of ordinances or laws regulating the erection, construction, alteration, maintenance, sanitation, ventilation or occupancy of such buildings; and

(3) The names of firms obtaining bid documents from any state agency.

Sec. 29. Subsection (d) of section 4b-91 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from*

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*passage*):

(d) On and after October 1, 2004, each bid submitted for a contract described in subsection (c) of this section shall include a copy of a prequalification certificate issued by the Commissioner of Administrative Services. The bid shall also be accompanied by an update statement in such form as the Commissioner of Administrative Services prescribes. The form for such update statement shall provide space for information regarding all bonded projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all bonded projects the bidder currently has under contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or corporate structure since the date the certificate was issued or renewed, any change in the contractor's qualification status as determined by the provisions of subdivision (6) of subsection (c) of section 4a-100 and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate and an update statement shall be invalid. Any public agency that accepts a bid submitted without a copy of such prequalification certificate and an update statement, as required by this section, shall be ineligible for the receipt of any state funds disbursed for the purpose of the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any public works project.

Sec. 30. Subdivision (1) of subsection (a) of section 4a-60g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

(1) "Small contractor" means any contractor, subcontractor, manufacturer or service company (A) which has been doing business

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under the same ownership and management and has maintained its principal place of business in the state, for a period of at least one year immediately prior to the date of application for certification under this section, (B) which [had gross revenues not exceeding ten million dollars in the most recently completed fiscal year prior to such application] meets the size standard established by the Department of Administrative Services for the business sector in which such contractor, subcontractor, manufacturer or service company primarily operates, and (C) at least fifty-one per cent of the ownership of which is held by a person or persons who exercise operational authority over the daily affairs of the business and have the power to direct the management and policies and receive the beneficial interests of the business, except that a nonprofit corporation shall be construed to be a small contractor if such nonprofit corporation meets the requirements of subparagraphs (A) and (B) of this subdivision.

Sec. 31. Subsection (f) of section 4a-60g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(f) The awarding authority shall require that a contractor or subcontractor awarded a contract or a portion of a contract under this section perform not less than fifteen per cent of the work with the workforces of such contractor or subcontractor and shall require that not less than twenty-five per cent of the work be performed by contractors or subcontractors eligible for awards under this section. A contractor awarded a contract or a portion of a contract under this section shall not subcontract with any person with whom the contractor is affiliated. No person who is affiliated with another person shall be eligible for awards under this section if both affiliated persons considered together would not qualify as a small contractor or a minority business enterprise under subsection (a) of this section. The awarding authority shall require that a contractor awarded a contract

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under this section submit, in writing, an explanation of any subcontract entered into with any person that is not eligible for awards under this section.

Sec. 32. Subsection (k) of section 4a-60g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(k) (1) Whenever the awarding agency has reason to believe that any contractor or subcontractor awarded a set-aside contract has wilfully violated any provision of this section, the awarding agency [may] shall send a notice to such contractor or subcontractor by certified mail, return receipt requested. Such notice shall include: (A) A reference to the provision alleged to be violated; (B) a short and plain statement of the matter asserted; (C) the maximum civil penalty that may be imposed for such violation; and (D) the time and place for the hearing. Such hearing shall be fixed for a date not earlier than fourteen days after the notice is mailed.

(2) The awarding agency shall hold a hearing on the violation asserted unless such contractor or subcontractor fails to appear. The hearing shall be held in accordance with the provisions of chapter 54. If, after the hearing, the awarding agency finds that the contractor or subcontractor has wilfully violated any provision of this section, the awarding agency shall suspend all set-aside contract payments to the contractor or subcontractor and may, in its discretion, order that a civil penalty not exceeding ten thousand dollars per violation be imposed on the contractor or subcontractor. If such contractor or subcontractor fails to appear for the hearing, the awarding agency may, as the facts require, order that a civil penalty not exceeding ten thousand dollars per violation be imposed on the contractor or subcontractor. The awarding agency shall send a copy of any order issued pursuant to this subsection by certified mail, return receipt requested, to the contractor or subcontractor named in such order. The awarding agency

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may cause proceedings to be instituted by the Attorney General for the enforcement of any order imposing a civil penalty issued under this subsection.

Sec. 33. Section 52 of public act 05-287 is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) [On] Notwithstanding any provision of the general statutes, on and after the effective date of this section, no state agency or quasi-public agency shall execute a contract for the purchase of goods or services, which contract has a total [value] cost to the state of fifty thousand dollars or more in any calendar or fiscal year, unless the state agency or quasi-public agency obtains the written affidavit described in subsection (b) of this section.

(b) (1) The chief official of the bidder or vendor awarded a contract described in subsection (a) of this section or the individual awarded such contract who is authorized to execute such contract, shall attest in an affidavit as to whether any consulting agreement has been entered into in connection with such contract. Such affidavit shall be required if any duties of the consultant included communications concerning business of such state agency, whether or not direct contact with a state agency, state or public official or state employee was expected or made. As used in this section "consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (1) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the state, (2) contacting, whether in writing or orally, any executive, judicial, or administrative office of the state, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information or (3) any other similar activity related to such contract. Consulting agreement does not include any agreements entered into with a consultant who is registered under the

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provisions of chapter 10 of the general statutes as of the date such affidavit is submitted in accordance with the provisions of this section.

(2) Such affidavit shall be sworn as true to the best knowledge and belief of the person signing the certification on the affidavit and shall be subject to the penalties of false statement.

(3) Such affidavit shall include the name of the consultant, the consultant's firm, the basic terms of the consulting agreement, a brief description of the services provided, and an indication as to whether the consultant is a former state employee or public official. If the consultant is a former state employee or public official, such affidavit shall indicate his or her former agency and the date such employment terminated.

(4) Such affidavit shall be amended whenever the bidder or vendor awarded the contract enters into any new consulting agreement during the term of such contract.

(c) Each state agency and quasi-public agency shall include a notice of the affidavit requirements of this section in the bid specifications or request for proposals for any contract that is described in subsection (a) of this section.

(d) In the event that a bidder or vendor refuses to submit the affidavit required under subsection (b) of this section, such bidder or vendor shall be disqualified and the state agency or quasi-public agency shall award the contract to the next highest ranked vendor or the next lowest responsible qualified bidder or seek new bids or proposals.

Sec. 34. Subsection (c) of section 33 of public act 05-287 is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(c) Any person who [violates] has been found in violation of any

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provision of this section by the State Ethics Commission, in accordance with the provisions of section 1-82, as amended by section 39 of public act 05-287, may be deemed a nonresponsible bidder by a state agency, board, commission or institution or quasi-public agency.

Sec. 35. Subdivision (19) of subsection (d) of section 2c-2b and section 4b-3 of the general statutes are repealed. (*Effective October 1, 2007*)

Vetoed June 30, 2005