



General Assembly

January Session, 2005

***Raised Bill No. 6612***

LCO No. 3214

\*03214\_\_\_\_\_GAE\*

Referred to Committee on Government Administration and Elections

Introduced by:  
(GAE)

***AN ACT CONCERNING ETHICS IN LARGE STATE CONSTRUCTION AND PROCUREMENT CONTRACTS.***

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

1 Section 1. (NEW) (*Effective October 1, 2005*) As used in sections 1, 2, 5  
2 and 6 of this act:

3 (1) "Large state construction and procurement contract" means any  
4 contract, having a cost of more than five hundred thousand dollars, for  
5 (A) the remodeling, alteration, repair or enlargement of any real asset,  
6 (B) the construction, alteration, reconstruction, improvement,  
7 relocation, widening or changing of the grade of a section of a state  
8 highway or a bridge, or (C) the purchase or lease of supplies,  
9 materials, or equipment, as defined in section 4a-50 of the general  
10 statutes;

11 (2) "Gift" means gift, as defined in section 4-250 of the general  
12 statutes;

13 (3) "Immediate family" means immediate family, as defined in  
14 section 1-79 of the general statutes;

15 (4) "Business with which the official or employee is associated"  
16 means business with which he is associated, as defined in section 1-79  
17 of the general statutes; and

18 (5) "Principals and key personnel" means principals and key  
19 personnel, as defined in section 4-250 of the general statutes.

20 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) Notwithstanding any  
21 provision of the general statutes, no person, firm or corporation, or  
22 principals and key personnel of such person, firm or corporation, that  
23 is, or is seeking to obtain, a large state construction or procurement  
24 contract shall:

25 (1) Knowingly give or promise to give, directly or indirectly, any  
26 gift or offer of employment to any state official or employee involved  
27 in the awarding, administering or supervising of any large state  
28 construction or procurement contract for which such person is a  
29 contractor or is seeking to become a contractor. State officials and  
30 employees involved in the awarding, administering or supervising of  
31 such contract include any state official who has appointing or  
32 supervisory authority over the contracting state agency, including, but  
33 not limited to, the Governor and any immediate family of the state  
34 official or employee or business with which the official or employee is  
35 associated;

36 (2) With the intent to obtain a competitive advantage over other  
37 bidders, solicit any information from a state official or employee that  
38 the contractor knows is not or will not be available to other bidders for  
39 a large state construction or procurement contract that the contractor is  
40 seeking;

41 (3) Intentionally, wilfully or with reckless disregard for the truth,  
42 charge the state for work not performed or goods not provided,  
43 including, but not limited to, submitting change orders in bad faith  
44 with the sole intention of increasing the contract price, falsifying  
45 invoices or bills, charging unconscionable rates for services to the state

46 or charging unconscionable prices for goods to the state; or

47 (4) Intentionally or wilfully violate or attempt to circumvent state  
48 competitive bidding and ethics laws.

49 (b) No person with whom the state has contracted to provide  
50 consulting services on a large state construction or procurement  
51 contract and no business with which such person is associated may  
52 serve as a contractor for such contract or as a subcontractor or  
53 consultant to the person who was awarded such contract.

54 (c) Any person who violates any provision of this section may be  
55 deemed a nonresponsible bidder by a state agency.

56 (d) The State Ethics Commission may investigate any violations of  
57 this section and may refer such violations to the Attorney General.  
58 Upon a finding of a violation, the State Ethics Commission may take  
59 any appropriate action pursuant to sections 1-88 and 1-89 of the  
60 general statutes in the same manner as for a violation of the Code of  
61 Ethics of Public Officials.

62 (e) Any person who knowingly violates any provision of this section  
63 shall be guilty of a class A misdemeanor.

64 Sec. 3. Subsection (i) of section 4a-100 of the general statutes is  
65 repealed and the following is substituted in lieu thereof (*Effective*  
66 *October 1, 2005*):

67 (i) The commissioner may not issue a prequalification certificate to  
68 any contractor (1) who is disqualified pursuant to section 31-57c or 31-  
69 57d, (2) who has a principal or key personnel who, within the past five  
70 years, has a conviction or has entered a plea of guilty or nolo  
71 contendere for or has admitted to commission of an act or omission  
72 that reasonably could have resulted in disqualification pursuant to any  
73 provision of subdivisions (1) to (3), inclusive, of subsection (d) of  
74 section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of  
75 section 31-57d, as determined by the commissioner, or (3) who was

76 found, during the five-year period prior to the commissioner's decision  
77 to issue a prequalification certificate, to have violated any provision of  
78 section 2 of this act.

79 Sec. 4. Subsection (k) of section 4a-100 of the general statutes is  
80 repealed and the following is substituted in lieu thereof (*Effective*  
81 *October 1, 2005*):

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

92 (2) The commissioner shall revoke the prequalification of any  
93 person, after an opportunity for hearing, if the commissioner finds that  
94 the person has included any materially false statement in such  
95 application or update statement, has been convicted of a crime related  
96 to the procurement or performance of any public or private  
97 construction contract or, within the past five years has violated any  
98 provision of section 2 of this act or has otherwise engaged in fraud in  
99 obtaining or maintaining prequalification. Any person whose  
100 prequalification has been revoked pursuant to this subsection shall be  
101 disqualified for a period of two years after which the person may  
102 reapply for prequalification, except that a person whose  
103 prequalification has been revoked on the basis of conviction of a crime,  
104 a violation of section 2 of this act or engaging in fraud shall be  
105 disqualified for a period of five years after which the person may  
106 reapply for prequalification. The commissioner shall not prequalify a  
107 person whose prequalification has been revoked pursuant to this

108 subdivision until the expiration of said two or five-year  
109 disqualification period and the commissioner is satisfied that the  
110 matters that gave rise to the revocation have been eliminated or  
111 remedied.

112       Sec. 5. (NEW) (*Effective October 1, 2005*) (a) Each large state  
113 construction and procurement contract shall include a provision  
114 allowing the state to terminate such contract at any time for any  
115 reason, including, but not limited to, the executive head of the state  
116 agency that entered into such contract having reasonable cause to  
117 believe that the contractor violated any provision of section 2 of this  
118 act, chapter 10 of the general statutes or any provision of the general  
119 statutes or the regulations of Connecticut state agencies concerning the  
120 competitive bidding process, provided such contractor is paid for all  
121 costs incurred as of the date of receipt of notice of termination.

122       (b) Each large state construction and procurement contract shall  
123 contain a provision allowing the state to terminate such contract if the  
124 contractor submits change orders costing in excess of ten per cent of  
125 the total contract price before more than ten per cent of the work of the  
126 contract is completed. If the state agency does not exercise such option  
127 to terminate such contract, the executive head of the state agency shall  
128 explain in writing the reasons why the state agency did not terminate  
129 such contract.

130       Sec. 6. (NEW) (*Effective October 1, 2005*) (a) The Departments of  
131 Administrative Services, Public Works, Transportation and  
132 Information Technology, The University of Connecticut and the  
133 Connecticut State University shall adopt regulations, in accordance  
134 with the provisions of chapter 54 of the general statutes, establishing  
135 objective criteria for the award of large state construction and  
136 procurement contracts provided such criteria shall be consistent with  
137 the regulations adopted by the Department of Public Works in  
138 accordance with the provisions of section 4b-100 of the general  
139 statutes. Each such agency or institution shall post such criteria on its

140 website and publicize such criteria in any other manner that may  
141 ensure that prospective bidders for such contracts are aware of the  
142 criteria.

143 (b) The agencies and institutions referred to in subsection (a) of this  
144 section shall also adopt policies on the disclosure of information  
145 concerning a competitive bid contract to large state construction and  
146 procurement contract bidders or potential bidders. Such policies shall  
147 require (1) each prebid submission inquiry concerning the  
148 specifications of the contract to be in writing, (2) the state agency to  
149 answer each such inquiry, in writing, and provide a copy of the  
150 answer to any other person who has expressed interest in bidding on  
151 such contract, except information provided at prebid meetings to  
152 which all interested parties are invited, (3) the state agency to record  
153 any information disseminated at prebid meetings and make such  
154 information available to any interested party, and (4) the state agency  
155 to maintain a record of each communication concerning the contract  
156 between employees of the state agency and any person interested in  
157 the contract, between the date the bid is advertised and the date the  
158 contract is awarded, which record shall include the date of such  
159 communication, the name of the person requesting information, the  
160 state employee providing such information and a general description  
161 of the disseminated information.

162 Sec. 7. Subsection (a) of section 4a-101 of the general statutes is  
163 repealed and the following is substituted in lieu thereof (*Effective*  
164 *October 1, 2005*):

165 (a) On or before October 1, 2005, the Commissioner of  
166 Administrative Services shall adopt regulations, in accordance with  
167 chapter 54, to establish a standard contractor evaluation form. Such  
168 form shall include, at a minimum, the following evaluation criteria: (1)  
169 Timeliness of performance; (2) quality of performance; (3) cost  
170 containment, including, but not limited to, the contractor's ability to  
171 work within the contract's allotted cost, the accuracy of the contractor's

172 billing, and the number and cause of change orders and the manner in  
173 which the contractor determined the price on the change orders; (4)  
174 safety; (5) the quality of the contractor's working relationship with the  
175 agency and the quality of the contractor's supervision of the work area;  
176 (6) communication with the agency; (7) the quality of the contractor's  
177 required documentation; (8) the performance of the contractor's  
178 subcontractors, to the extent known by the official who completes the  
179 evaluation; [and] (9) the contractor's and any subcontractor's  
180 compliance with part III of chapter 557, or chapter 558, or the  
181 provisions of the federal Davis-Bacon Act, 40 USC, Sections 276a to  
182 276a-5, inclusive, as from time to time amended, to the extent known  
183 by the official who completes the evaluation; and (10) the contractor's  
184 and any subcontractor's compliance with section 2 of this act, chapter  
185 10 or any provision of the general statutes or regulations of  
186 Connecticut state agencies concerning competitive bidding.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	New section
Sec. 2	October 1, 2005	New section
Sec. 3	October 1, 2005	4a-100(i)
Sec. 4	October 1, 2005	4a-100(k)
Sec. 5	October 1, 2005	New section
Sec. 6	October 1, 2005	New section
Sec. 7	October 1, 2005	4a-101(a)

**Statement of Purpose:**

To require state agencies to adopt clear and consistent procedures for evaluating bids and contractor performance.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*