



Substitute House Bill No. 5695

Public Act No. 06-134

AN ACT CONCERNING CONSTRUCTION OVERSIGHT AT THE UNIVERSITY OF CONNECTICUT AND THE PREQUALIFICATION OF SUBSTANTIAL CONTRACTORS.

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

Section 1. (NEW) (*Effective July 1, 2006*) The Board of Trustees for The University of Connecticut shall select and appoint independent auditors, as defined in subdivision (7) of section 4-230 of the general statutes, to annually conduct an audit of any project of UCONN 2000, as defined in subdivision (25) of section 10a-109c of the general statutes, as amended by this act. Such audit shall review all invoices, expenditures, cost allocations and other appropriate documentation in order to reconcile all project costs and verify conformance with project budgets, cost allocation agreements and applicable contracts. The Board of Trustees for The University of Connecticut shall ensure that the auditors have unfettered access to any documentation the auditors need to review any such project. The auditors appointed pursuant to this section may serve in such capacity for five consecutive years and shall not be reappointed at the expiration of such period. Any such auditor appointed pursuant to this section shall not perform any nonaudit services for the university during such period.

Sec. 2. (NEW) (*Effective July 1, 2006*) The Board of Trustees for The

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University of Connecticut shall annually review reports of audits of any project of UCONN 2000, as defined in subdivision (25) of section 10a-109c of the general statutes, as amended by this act, pursuant to section 2-90 of the general statutes, and section 1 of this act. Such review shall be initially conducted by the board without the presence of university staff members.

Sec. 3. (NEW) (*Effective July 1, 2006*) (a) There is established a construction management oversight committee consisting of (1) four members appointed jointly by the Governor, the speaker of the House of Representatives, the majority leader of the House of Representatives, the minority leader of the House of Representatives, the president pro tempore of the Senate, the majority leader of the Senate and the minority leader of the Senate, and (2) three members appointed by the Board of Trustees for The University of Connecticut, who shall be members of said board. The Board of Trustees shall replace any such committee member appointed by said board, if such committee member's term on the board expires, or otherwise ends. The members appointed pursuant to subdivision (1) of this subsection shall have expertise in the fields of construction management, architectural design or construction project management. The chairperson of the committee shall be designated by the Board of Trustees. All appointments of the initial committee shall be made no later than July 20, 2006. Appointments shall be for four consecutive years, except that two of the initial appointments pursuant to subdivision (1) of this subsection shall be for three consecutive years. Upon expiration of the initial members' terms and every four years thereafter, new members shall be appointed in accordance with the procedures for appointment set forth in this section. A majority of the members of the committee shall constitute a quorum for the conduct of business. The committee shall act by a majority vote of the members. The committee shall maintain a record of its proceedings in such form as it determines, provided such record indicates attendance and all votes cast by each

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member.

(b) The construction management oversight committee established pursuant to subsection (a) of this section shall review and approve the policies and procedures developed by The University of Connecticut to undertake any project of UCONN 2000, as defined in subdivision (25) of section 10a-109c of the general statutes, as amended by this act, concerning the selection of design professionals and contractors, as defined in subdivision (27) of said section 10a-109c, contract compliance, building and fire code compliance, deferred maintenance, as defined in subdivision (29) of said section 10a-109c, and an annual budget for such maintenance prepared pursuant to section 9 of this act, project and program budgets and schedules and the authorization and review of contract changes. Such committee shall prepare, biennially, a summary of construction performance of UCONN 2000 based on reports submitted at least quarterly by the construction assurance office established pursuant to section 4 of this act, and shall, upon the completion of each named project pursuant to section 10a-109e of the general statutes, conduct a review of the university's management of such project for its conformance with the applicable policies and procedures governing construction undertaken pursuant to section 10a-109n of the general statutes, as amended by this act. Such review of completed projects shall incorporate information, including, but not limited to, that which is derived from reviews of the reports submitted at least quarterly by the construction assurance office, in accordance with section 4 of this act.

(c) The construction management oversight committee established pursuant to subsection (a) of this section shall, upon completion of each assessment, summary, and review conducted pursuant to this section, submit such assessments, summaries, and reviews to the Board of Trustees for The University of Connecticut. The board shall initially review each such assessment, summary, and review without

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the presence of university staff members.

Sec. 4. (NEW) (*Effective July 1, 2006*) Not later than August 1, 2006, the Board of Trustees for The University of Connecticut shall establish the construction assurance office. Positions in the office shall be paid positions. The office shall be led by a full-time director who shall be responsible for reviews of construction performance of UCONN 2000, as defined in subdivision (25) of section 10a-109c of the general statutes, as amended by this act, and shall report at least quarterly to the construction management oversight committee in accordance with section 3 of this act and to the president of The University of Connecticut.

Sec. 5. Subsection (b) of section 10a-104 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(b) The board of trustees shall: (1) Review and approve institutional budget requests and prepare and submit to the Board of Governors of Higher Education, in accordance with the provisions of section 10a-8, the budget request for the university and all branches thereof; (2) propose facility planning and capital expenditure budget priorities for the institutions under its jurisdiction; [and] (3) fulfill requirements concerning the auditing and review of projects of UCONN 2000 in accordance with sections 1, 2 and 3 of this act; (4) establish the construction assurance office in accordance with section 4 of this act; and (5) exercise the powers delegated to it in section 10a-109d, as amended by this act. The board may request authority from the Treasurer to issue payment for claims against the university, other than a payment for payroll, debt service payable on state bonds to bondholders, paying agents, or trustees, or any payment the source of which includes the proceeds of a state bond issue.

Sec. 6. Section 10a-109c of the general statutes is amended by adding

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subdivisions (27), (28) and (29) as follows (*Effective July 1, 2006*):

(NEW) (27) "Contractor" means any person, firm, corporation or other legal entity (A) seeking prequalification to bid on a contract or seeking the award of a contract, or (B) prequalified to bid on a contract or that has been awarded a contract, in accordance with subsection (c) of section 10a-109n, as amended by this act.

(NEW) (28) "Total cost basis contract" means a construction manager at-risk project delivery contract between The University of Connecticut and a contractor, as defined in subdivision (27) of this section, to accomplish multiple elements of a project, including, but not be limited to, site acquisition, architectural design, preconstruction activities, project management and construction.

(NEW) (29) "Deferred maintenance" means repair of an infrastructure or structure, that was not maintained, repaired or replaced in the usual course of maintenance and repair, except for repairs performed solely to correct code violations that were applicable at the time of project completion and were for named projects pursuant to section 10a-109e, (A) which did not meet the threshold limits, as defined in section 29-276b, and (B) were completed prior to July 1, 2006.

Sec. 7. Subdivision (11) of subsection (a) of section 10a-109d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(11) To make, enter into, execute, deliver and amend any and all contracts, including, but not limited to, total cost basis contracts, agreements, leases, instruments and documents and perform all acts and do all things necessary or convenient to plan, design, acquire, construct, build, enlarge, alter, reconstruct, renovate, improve, equip, finance, maintain and operate projects and to carry out the powers

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granted by sections 10a-109a to 10a-109y, inclusive, or reasonably implied from those powers.

Sec. 8. Subsection (c) of section 10a-109n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(c) (1) Any construction contract to which the university is a party may include a provision that the design professional who designed the project, or an architect or professional engineer or construction manager retained or employed specifically for the purpose of supervision, may supervise the work to be performed through to completion and ensure that the materials furnished and the work performed are in accordance with the drawings, plans, specifications and contracts therefor.

(2) [With respect to any construction contract] (A) Except as provided in subparagraph (B) of this subdivision, any total cost basis contract or other contract for the construction of a university project which is estimated to cost more than five hundred thousand dollars, [that is to] shall be publicly let [, the university shall identify a list of potentially responsible qualified bidders for the particular contract. Thereafter, the] by the university. The university shall give notice [to those on the list of the work required and of the invitation to prequalify] to contractors interested in prequalifying to submit a project proposal or bid, by advertising, at least once, in one or more newspapers having general circulation in the state and by posting the advertisement on the university web site. The [invitation] notice to prequalify shall contain [such information as the university shall deem appropriate and] the requirement that contractors be prequalified pursuant to section 4a-100, as amended by this act, a statement of the time and place where the responses shall be received and such additional information as the university deems appropriate. Upon receipt of such responses, the university shall select each [bidder

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which] contractor who has been prequalified pursuant to section 4a-100, as amended by this act, and has shown itself able to post surety bonds required by such contract and has demonstrated that it possesses the financial, managerial and technical ability and the integrity necessary and without conflict of interest for faithful and efficient performance of the work provided for therein. The university shall evaluate whether [a bidder] each such contractor is responsible and qualified based on its experience with projects similar to that for which the bid or proposal is to be submitted and based on objective written criteria [and] included in the application to request [for] prequalification with respect to such contract. The university shall also consider whether a [bidder] contractor, and any subcontractor on the [bidder's] contractor's previous projects, has been in compliance with the provisions of part III of chapter 557 and chapter 558 during the previous five calendar years.

(B) Notwithstanding the provisions of subparagraph (A) of this subdivision, the board of trustees may approve a total cost basis contract or other contract for the construction of a university project which is estimated to cost more than five hundred thousand dollars that has not been publicly let pursuant to the provisions of said subparagraph (A), provided the board deems the contract to address an emergency.

(3) The university shall thereafter give notice to those so prequalified by the university pursuant to subdivision (2) of this section of the time and place where the public letting shall occur and shall include in such notice such information of the work required as appropriate. Each bid or proposal shall be kept sealed until opened publicly at the time and place as set forth in the notice soliciting such bid or proposal. The university shall not award any construction contract, including, but not limited to, any total cost basis contract, after public letting, except to the responsible qualified [bidder]

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contractor, submitting the lowest bid or proposal in compliance with the bid or proposal requirements of the solicitation document. The university may, however, waive any informality in a bid or proposal, and may either reject all bids or proposals and again advertise for bids or proposals or interview at least three responsible qualified [bidders] contractors and negotiate and enter into with any one of such [bidders] contractors that construction contract which is both fair and reasonable to the university.

(4) The [invitation to] notice to each contractor prequalified to submit a proposal or bid and the construction contract, including each total cost basis contract, awarded by the university shall contain such other terms and conditions, and such provisions for penalties as the university may deem appropriate.

(5) No payments shall be made by the university on account of any contract for the project awarded by or for the university until the bills or estimates presented for such payment shall have been duly certified to be correct by the university. No payments shall be made from any other fund on account of any contract for any project awarded by or for the university until the bills or estimates presented for such payment shall have been duly certified to be correct by the university.

(6) Provision shall be made in each contract to the effect that payment is limited to the amount provided therein and that no liability of the university or state shall and may be incurred beyond such amount.

(7) The university shall require, for the protection of the state and the university, such deposits, bonds and security in connection with the submission of bids or proposals, the award of construction contracts and the performance of work as the university shall determine to be appropriate and in the public interest of the state.

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(8) Any contract awarded by the university shall be a contract with the state acting through the university.

(9) The university shall not enter into a construction manager at-risk project delivery contract that does not provide for a maximum guaranteed price for the cost of construction which shall be determined not later than the time of the receipt and approval by the university of the trade contractor bids. Each construction manager at-risk shall invite bids and give notice of opportunities to bid on project elements, by advertising, at least once, in one or more newspapers having general circulation in the state. Each bid shall be kept sealed until opened publicly at the time and place as set forth in the notice soliciting such bid. The construction manager at-risk shall, after consultation with and approval by the university, award any related contracts for project elements to the responsible qualified contractor, who shall be prequalified pursuant to section 4a-100, as amended by this act, submitting the lowest bid in compliance with the bid requirements, provided (A) the construction manager at-risk shall not be eligible to submit a bid for any such project element, and (B) construction shall not begin prior to the determination of the maximum guaranteed price, except for the project elements of site preparation and demolition that have been previously put out to bid and awarded.

Sec. 9. (NEW) (*Effective July 1, 2006*) The university, as defined in subdivision (26) of section 10a-109c of the general statutes, as amended by this act, shall conduct reviews of deferred maintenance needs at the university and annually submit to the construction management oversight committee established pursuant to section 3 of this act, an annual budget concerning deferred maintenance, as defined in subdivision (29) of said section 10a-109c.

Sec. 10. Section 29-291 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

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For the purposes of this part and any other statute related to fire prevention and safety, the Commissioner of Public Safety shall serve as the State Fire Marshal. The commissioner may delegate such powers as the commissioner deems expedient for the proper administration of this part and any other statute related to fire prevention and safety to any employee of (1) the Department of Public Safety, and (2) The University of Connecticut at Storrs Division of Public Safety, provided the commissioner and the president of The University of Connecticut enter into a memorandum of understanding concerning such delegation of powers in accordance with section 12 of this act. [such powers as the commissioner deems expedient for the proper administration of this part and any other statute related to fire prevention and safety.]

Sec. 11. Subsection (e) of section 29-252a of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(e) The State Building Inspector or said inspector's designee may inspect or cause to be inspected any construction of buildings or alteration of existing buildings by state agencies, except that said inspector or designee shall inspect or cause an inspection if the building being constructed includes residential occupancies for twenty-five or more persons. The State Building Inspector may order any state agency to comply with the State Building Code. The commissioner may delegate such powers as the commissioner deems expedient for the proper administration of this part and any other statute related to the State Building Code to The University of Connecticut, provided the commissioner and the president of The University of Connecticut enter into a memorandum of understanding concerning such delegation of powers in accordance with section 12 of this act.

Sec. 12. (NEW) (*Effective July 1, 2006*) The Commissioner of Public

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Safety and the president of The University of Connecticut shall enter into and maintain a memorandum of understanding that shall provide for the temporary assignment of personnel from The University of Connecticut at Storrs Division of Public Safety to the Department of Public Safety for the purpose of ensuring compliance with the Fire Safety Code and the State Building Code with respect to buildings or building projects that (1) are part of UCONN 2000, as defined in subdivision (25) of section 10a-109c of the general statutes, as amended by this act, (2) do not meet threshold limits, as defined in section 29-276b of the general statutes, and (3) are initiated during the period of time in which the memorandum is in effect.

Sec. 13. (NEW) (*Effective July 1, 2006*) The university, as defined in subdivision (26) of section 10a-109c of the general statutes, as amended by this act, shall provide that all funds allocated to UCONN 2000, as defined in subdivision (25) of section 10a-109c of the general statutes, as amended by this act, for the purpose of deferred maintenance, as defined in subdivision (29) of section 10a-109c of the general statutes, as amended by this act, shall be expended for such purpose.

Sec. 14. (*Effective from passage*) The university, as defined in subdivision (26) of section 10a-109c of the general statutes, as amended by this act, shall (1) account for all funds for deferred maintenance, as defined in subdivision (29) of section 10a-109c of the general statutes, as amended by this act, expended for the purposes of UCONN 2000, as defined in subdivision (25) of section 10a-109c of the general statutes, as amended by this act, prior to the effective date of this section, and (2) inspect all structures of the university and create an inventory of all structures requiring deferred maintenance and the approximate costs of such deferred maintenance. Not later than December 1, 2006, the university shall report its findings, in accordance to the provisions of section 11-4a of the general statutes, to the Board of Trustees for The University of Connecticut and to the joint standing committee of the

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General Assembly having cognizance of matters relating to higher education.

Sec. 15. (*Effective from passage*) Not later than December 1, 2006, the university, as defined in subdivision (26) of section 10a-109c of the general statutes, as amended by this act, shall, in accordance with the provisions of section 11-4a of the general statutes, report to the joint standing committee of the General Assembly having cognizance of matters relating to higher education, any findings of violations of the Fire Safety Code or the State Building Code with respect to buildings and building projects described in subdivisions (1) and (2) of section 12 of this act that were completed prior to the effective date of this section. Such report shall include an initial schedule to address the violations, the approximate costs and proposed funding sources.

Sec. 16. Subsection (a) of section 4a-100 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2007*):

(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 or any other public work for work by the state or a municipality, except a public highway or bridge project; (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 projects; and (5) "single project limit" means the highest estimated cost of a single project that an applicant is capable of undertaking.

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Sec. 17. Subsection (c) of section 4a-101 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2007*):

(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.

Sec. 18. Subsection (a) of section 4b-91 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2007*):

(a) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state, which is estimated to cost more than five hundred thousand dollars, except [(1)] a contract awarded by the Commissioner of Public Works for [(A)] (1) a community court project, as defined in subsection (j) of section 4b-55, as amended, [(B)] (2) the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, as amended, [(C)] (3) a correctional facility project, as defined in subsection (m) of section 4b-55, as amended, [(D)] (4) a juvenile detention center project, as defined in subsection (n) of section 4b-55, as amended, or [(E)] (5) a student residential facility for the Connecticut State University system that is a priority higher education facility project, as defined in subsection (f) of section 4b-55, as amended, [or (2) a project, as defined in subdivision (16) of section 10a-109c, undertaken and controlled by The University of Connecticut in accordance with section 10a-109n,] shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant

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to section 4a-100 on the basis of competitive bids in accordance with the procedures set forth in this chapter, after the Commissioner of Public Works or, in the case of a contract for the construction of or work on a building under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, the joint committee or, in the case of a contract for the construction of or work on a building under the supervision and control of one of the constituent units of the state system of higher education, the constituent unit, has invited such bids by advertisements inserted at least once in one or more newspapers having a circulation in each county in the state. The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall indicate the prequalification classification required for the contract in such advertisement. As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of Administrative Services pursuant to section 4a-100, as amended by this act.

Sec. 19. Subsection (c) of section 4b-91 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2007*):

(c) On and after October 1, 2004, no person may bid on a contract [, 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. Subsection (a) of section 10a-109n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2007*):

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(a) [Notwithstanding any provision of chapter 59 or 60, for] For the period from July 1, 2001, to June 30, 2015, the university shall, have charge and supervision of the design, planning, acquisition, remodeling, alteration, repair, enlargement, demolition of any real asset or any other project on its campuses.

Sec. 21. (NEW) (*Effective July 1, 2006*) (a) In order to carry out any provision of title 4b of the general statutes for the construction, renovation or alteration of buildings or facilities, the Commissioner of Public Works may enter into a construction manager at-risk project delivery contract.

(b) The Commissioner of Public Works shall not enter into a construction manager at-risk project delivery contract that does not provide for a maximum guaranteed price for the cost of construction that shall be determined not later than the time of the receipt and approval by the commissioner of the trade contractor bids. Each construction manager at-risk shall invite bids and give notice of opportunities to bid on project elements, by advertising, at least once, in one or more newspapers having general circulation in the state. Each bid shall be kept sealed until opened publicly at the time and place as set forth in the notice soliciting such bid. The construction manager at-risk shall, after consultation with and approval by the commissioner, award any related contracts for project elements to the responsible qualified contractor submitting the lowest bid in compliance with the bid requirements, provided (1) the construction manager at-risk shall not be eligible to submit a bid for any such project element, and (2) construction shall not begin prior to the determination of the maximum guaranteed price, except for the project elements of site preparation and demolition that have been previously put out to bid and awarded.

Sec. 22. Section 4a-100 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

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(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 projects; [and] (5) "single project limit" means the highest estimated cost of a single project that an applicant is capable of undertaking; and (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

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\$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;

[(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

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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 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,] for a period of not less than the past three years, the applicant's past experience on projects of various size and type, the skill, ability and integrity of the

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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 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

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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 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

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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 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.

(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

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application or update statement, has been convicted of a crime related to the procurement or performance of any public or private construction contract 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. 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, as amended by this act, shall not apply to subcontractors who are not substantial 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.

(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

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work capacity rating or a revocation or nonrenewal of certification may appeal to the Superior Court in accordance with section 4-183.

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

Sec. 23. Section 4a-101 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(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

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whole or in part, by state funds. Such evaluation information shall be 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 and "substantial subcontractor" means a substantial subcontractor, as defined in section 4a-100, as amended by this act.

(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

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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 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. 24. Section 4b-91 of the 2006 supplement to the general statutes is amended by adding subsection (j) as follows (*Effective October 1, 2007*):

(NEW) (j) On and after October 1, 2007, no person whose subcontract exceeds five hundred thousand dollars in value may perform work as a subcontractor on a project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality, which project 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

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prequalified in accordance with section 4a-100, as amended by this act. The provisions of this subsection shall not apply to a project described in subdivision (2) of subsection (a) of this section.

Approved June 6, 2006