



DEPARTMENT OF ADMINISTRATIVE SERVICES

STATE OF CONNECTICUT

165 Capitol Avenue  
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## **Raised Bill 1063**

### **AN ACT CONCERNING STATE CONTRACTING AND THE PREQUALIFICATION PROGRAM ADMINISTERED BY THE DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Testimony of J. Carlos Velez  
Procurement Program Manager**

**Government Administration & Elections Committee  
February 5, 2007**

Good morning Senator Slossberg, Representative Caruso and members of the GAE Committee. My name is Carlos Velez, and I am a Procurement Program Manager overseeing the Contractor Prequalification Program at the Department of Administrative Services (DAS).

**I am here today to thank you for raising Senate Bill 1063, An Act Concerning State Contracting and the Prequalification Program Administered by the Department of Administrative Services, and to urge you to support it.**

This bill makes a variety of changes to state contracting procedures and to the DAS Contractor Prequalification program, a new program that went into effect in October 2004. After running the program for two years, DAS has identified areas where the statute could be strengthened and clarified to bolster the effectiveness of the program and its intended goals – to ensure that only contractors with skill, proven performance, integrity, and good safety records perform contracting work for the State of Connecticut.

Chief among these changes is correcting the “public work” language that was passed last year. Instead of directing DAS to prequalify contractors who bid on contracts for construction of “public buildings,” the language was broadened to require us to prequalify contractors who bid on contracts for any “public work.”

This change was originally intended to include wastewater treatment plants and sewer work in the DAS Prequalification program—and we have added those classifications to our program. However, the final language that passed last year is much broader.

As written, this language is ambiguous, and could require DAS to prequalify contractors for work such as ports, breachways, erosion control walls, and railroad stations. . . the list is potentially endless, and what particularly concerns us is the unknown.

DAS does not have the ability to foresee every classification of work this language might include, and further, we do not have the expertise to assess the skill and ability of contractors in these areas.

Additionally, it is likely that DAS Prequalification for such diverse classifications would conflict with DOT's prequalification process in a number of areas.

An immediate concern raised by last year's change is the fact that the language "public building" was changed to "public work" in only one section of all the statutes addressing prequalification; other sections still refer to the term "public building." This creates a number of conflicts. For example, DAS must now prequalify all companies that perform "public work," but state agencies and municipalities are required to use prequalified vendors only for "public buildings." Additionally, DAS now only accepts performance evaluations on work for "public buildings" – because that language wasn't changed last year – even though we are supposed to prequalify and monitor all companies doing "public work." DAS respectfully suggests that these inconsistencies must be fixed.

Raised Bill 1063 also includes a number of other changes intended to clarify and strengthen the effectiveness of the Prequalification Program. For example, this bill includes language to ensure that contractors maintain their prequalified status throughout the life of their contract. Currently a contractor need only be prequalified at the time of bid. This language would discourage contractors from engaging in conduct that could lead to their disqualification throughout the life a project.

Second, this bill adds language ensuring that DAS may deny a renewal application for prequalification when a company has been disqualified by DPW or DOT or has otherwise admitted to wrongdoing. Currently, DAS may only deny such a company its initial prequalification.

The bill also enables DAS to suspend a contractor's prequalification while investigating whether a contractor has engaged in conduct egregious enough to justify revocation or reduction in its prequalification.

Moreover, I'd like to highlight Section 8 of this bill, which ensures that surety companies use only prequalified contractors when they take over a job pursuant to the surety contract.

There are various other changes in this bill that, in the interest of time, I will not discuss, but are part of our written submissions. This includes:

- Enabling agencies and municipalities to terminate a contract if it is determined that a contractor engaged in fraud during any part of the prequalification process, not just in completing the application form;
- Fixing the provision that deleted UCONN from the prequalification program in October 2007;

- Clarifying that project owners need to submit to DAS performance evaluations only for projects subject to DAS prequalification;
- Deleting the requirement for DAS to draft separate regulations to establish the fees for substantial subcontractors. There is no need to establish a separate list of fees for this group; DAS treats all contractors the same, whether they are contractors or subcontractors; in fact, DAS does not know at the time of application whether a company will be later bidding as a contractor or a sub. In many cases, a company applying for prequalification by DAS will be a prime contractor on one contract, and a sub on another over the course of the year;
- Clarifying that the new campaign contribution requirements do not have to physically be listed on the prequalification certificate issued by DAS (a 1-page representation of a company's prequalification status), but that prequalification applicants must be notified of the new contribution requirements;
- Deleting the requirement that DAS review evaluations of contractors going back at least three years. Applicants are simply not able to go back and get project owners to provide evaluations for projects completed several years ago. DAS presently reviews most current 3 projects of the applicant in the classification the applicant is seeking prequalification, and reviews the evaluations for those 3 recent projects to determine if the applicant is "experienced" in that class;
- Clarifying that there are two types of "update statements:" One submitted to DAS each year to renew or upgrade a company's prequalification; and one submitted by the contractors with their bids for particular projects ("update bid statements") (these go to the contracting agency).

Before I conclude, I want to point out Section 1 of the proposed bill, which relates to contracting in general, not the Contractor Prequalification Program. This provision extends the time period of potential disqualification for contractors from 2 years to 5 years.

Thank you for the opportunity to speak to you. I am happy to answer any questions you may have.