



General Assembly

January Session, 2007

**Raised Bill No. 1063**

LCO No. 3706

\*03706 \_\_\_\_\_ GAE\*

Referred to Committee on Government Administration and Elections

Introduced by:  
(GAE)

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

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

1 Section 1. Subsection (a) of section 4a-63 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective from*  
3 *passage*):

4 (a) The Commissioner of Administrative Services may disqualify  
5 any person, firm or corporation, for up to [two] five years, from  
6 bidding on contracts with the Department of Administrative Services,  
7 pursuant to section 4a-57, for supplies, materials, equipment and  
8 contractual services required by any state agency, for one or more  
9 causes set forth under subsection (c) of this section. The commissioner  
10 may initiate a disqualification proceeding after consulting with the  
11 purchasing agency, if any, and the Attorney General and shall provide  
12 notice and an opportunity to be heard to the person, firm or  
13 corporation which is the subject of the proceeding. The commissioner  
14 shall issue a written decision within ninety days of the last date of such

15 hearing and state in the decision the reasons for the action taken and, if  
16 the person, firm or corporation is being disqualified, the period of such  
17 disqualification. The commissioner shall send the decision to such  
18 person, firm or corporation by certified mail, return receipt requested.  
19 The written decision shall be a final decision for the purposes of  
20 sections 4-180 and 4-183.

21 Sec. 2. Section 4a-100 of the general statutes is repealed and the  
22 following is substituted in lieu thereof (*Effective from passage*):

23 (a) As used in this section: (1) "Prequalification" means  
24 prequalification issued by the Commissioner of Administrative  
25 Services to bid on a contract or perform work pursuant to a contract  
26 for the construction, reconstruction, alteration, remodeling, repair or  
27 demolition of any public building [or any other public work for work]  
28 by the state or a municipality; [ except a public highway or bridge  
29 project;] (2) "subcontractor" means a person who performs work with a  
30 value in excess of twenty-five thousand dollars for a contractor  
31 pursuant to a contract for work for the state or a municipality which is  
32 estimated to cost more than five hundred thousand dollars; (3)  
33 "principals and key personnel" includes officers, directors,  
34 shareholders, members, partners and managerial employees; (4)  
35 "aggregate work capacity rating" means the maximum amount of work  
36 an applicant is capable of undertaking for any and all projects; [and]  
37 (5) "single project limit" means the highest estimated cost of a single  
38 project that an applicant is capable of undertaking; (6) "contract"  
39 means an agreement for work for the state or a municipality that is  
40 estimated to cost more than five hundred thousand dollars and is  
41 funded, in whole or in part, by state funds; and (7) "public building"  
42 means a structure, paid for in whole or in part with state funds, with a  
43 roof and exterior walls or fire walls, and includes, but is not limited to,  
44 sewage treatment plants, water treatment plants, sewer or drainage  
45 systems, pump houses and other utility systems.

46 (b) (1) Any person may apply for prequalification to the Department

47 of Administrative Services. Such application shall be made on such  
48 form as the Commissioner of Administrative Services prescribes and  
49 shall be accompanied by a nonrefundable application fee as set forth in  
50 subdivision (2) of this subsection. The application shall be signed  
51 under penalty of false statement.

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

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

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

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

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

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

63 (4) Any legal or administrative proceedings pending or concluded  
64 adversely against the applicant or any of the applicant's principals or  
65 key personnel within the past five years which relate to the

66 procurement or performance of any public or private construction  
67 contract and whether the applicant is aware of any investigation  
68 pending against the applicant or any principal or key personnel;

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

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

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

87 (d) The applicant shall include a statement of financial condition  
88 prepared by a certified public accountant which includes information  
89 concerning the applicant's assets and liabilities, plant and equipment,  
90 bank and credit references, bonding company and maximum bonding  
91 capacity, and other information as the commissioner deems relevant to  
92 an evaluation of the applicant's financial capacity and responsibility.

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

96 (f) The commissioner shall determine whether to prequalify an  
97 applicant on the basis of the application and on relevant past  
98 performance according to procedures and criteria set forth in  
99 regulations which the commissioner shall adopt on or before October  
100 1, 2005, in accordance with chapter 54. Such criteria shall include, at a  
101 minimum, the record of the applicant's performance, including, but  
102 not limited to, written evaluations of the applicant's performance on  
103 public or private projects within the past five years, the applicant's  
104 past experience on projects of various size and type, the skill, ability  
105 and integrity of the applicant and any subcontractors used by the  
106 applicant, the experience and qualifications of supervisory personnel  
107 employed by the applicant, the maximum amount of work the  
108 applicant is capable of undertaking as demonstrated by the applicant's  
109 financial condition, bonding capacity, size of past projects and present  
110 and anticipated work commitments, and any other relevant criteria  
111 that the commissioner prescribes. Such regulations shall also (1)  
112 provide that the criteria considered shall be assigned separate  
113 designated numerical values and weights and that the applicant shall  
114 be assigned an overall numerical rating on the basis of all criteria, and  
115 (2) establish prequalification classifications, aggregate work capacity  
116 ratings and single project limits. Such prequalification classifications  
117 shall be used to establish the types of work a contractor is qualified to  
118 perform and the aggregate work capacity ratings shall be used to  
119 establish the maximum amount of work a contractor is capable of  
120 undertaking.

121 (g) (1) The applicant shall indicate the prequalification  
122 classifications, aggregate work capacity ratings and single project  
123 limits that are sought. The commissioner may issue a certificate of  
124 prequalification to any applicant who meets the requirements of this  
125 section. Such certificate shall be effective for one year from the date  
126 issued and shall indicate the contractor's prequalification  
127 classifications, aggregate work capacity ratings and single project  
128 limits. The commissioner may cause the initial certificate of  
129 prequalification to be effective for a period not to exceed two years and

130 may require the applicant to remit payment of the application fee, as  
131 set forth in subsection (b) of this section, for the first twelve months of  
132 certification as well as a prorated application fee, as described in  
133 subdivision (3) of this subsection, for any additional period of  
134 certification beyond the first twelve months.

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

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

146 (h) Not later than sixty days after receiving a completed application,  
147 the commissioner shall mail or send by electronic mail a notice to the  
148 applicant concerning the commissioner's preliminary determination  
149 regarding the conditions of the prequalification certification, a denial  
150 of certification, a reduction in the level of certification sought or  
151 nonrenewal of certification. Any applicant aggrieved by the  
152 commissioner's preliminary determination may request copies of the  
153 information upon which the commissioner relied in making the  
154 preliminary determination, provided such request is made not later  
155 than ten days after the date the notice was mailed or sent by electronic  
156 mail to the applicant. Not later than twenty days after the date the  
157 notice was mailed or sent by electronic mail, the applicant may submit  
158 additional information to the commissioner with a request for  
159 reconsideration. The commissioner shall issue a final determination  
160 regarding the application not later than ninety days after the date the  
161 commissioner mailed or sent by electronic mail the notice of the

162 preliminary determination, which ninety-day period may be extended  
163 for an additional period not to exceed ninety days if (1) the  
164 commissioner gives written notice to the applicant that the  
165 commissioner requires additional time, and (2) such notice is mailed or  
166 sent by electronic mail during the initial ninety-day period.

167 (i) The commissioner may not issue or renew a prequalification  
168 certificate to any contractor (1) who is disqualified pursuant to section  
169 31-57c or 31-57d, or (2) who has a principal or key personnel who,  
170 within the past five years, has a conviction or has entered a plea of  
171 guilty or nolo contendere for or has admitted to commission of an act  
172 or omission that reasonably could have resulted in disqualification  
173 pursuant to any provision of subdivisions (1) to (3), inclusive, of  
174 subsection (d) of section 31-57c or subdivisions (1) to (3), inclusive, of  
175 subsection (d) of section 31-57d, as determined by the commissioner.

176 (j) The commissioner may revoke a contractor's prequalification or  
177 reduce the contractor's prequalification classification or aggregate  
178 work capacity ratings, after an opportunity for a hearing, if the  
179 commissioner receives additional information that supports such  
180 revocation or reduction. Prior to the initiation of such hearing or  
181 during the course of such hearing, the commissioner may suspend a  
182 contractor's prequalification certificate if the commissioner determines  
183 that there is probable cause to believe that such contractor engaged in  
184 conduct that significantly undermines the skill, ability or integrity of  
185 such contractor. Any such suspension shall not exceed a period of  
186 three months and shall be accompanied by a written decision of the  
187 commissioner that sets forth the reasons for and duration of such  
188 suspension. The commissioner shall send notification of any such  
189 suspension to such contractor by certified mail, return receipt  
190 requested.

191 (k) (1) Any substantial evidence indicating fraud in obtaining or  
192 maintaining prequalification or any materially false statement in the  
193 application, [or any] update statement or update bid statement may, in

194 the discretion of the awarding authority, result in termination of any  
195 contract awarded the applicant by the awarding authority. The  
196 awarding authority shall provide written notice to the commissioner of  
197 such false statement not later than thirty days after discovering such  
198 false statement. The commissioner shall provide written notice of such  
199 false statement to the Commissioner of Public Works, [and] the  
200 Commissioner of Consumer Protection and the chair of the  
201 construction management oversight committee at The University of  
202 Connecticut not later than thirty days after discovering such false  
203 statement or receiving such notice.

204 (2) The commissioner shall deny or revoke the prequalification of  
205 any person [, after an opportunity for hearing,] if the commissioner  
206 finds that the person has included any materially false statement in  
207 such application, [or] update statement or update bid statement, has  
208 been convicted of a crime related to the procurement or performance  
209 of any public or private construction contract or, within the past five  
210 years, [or] has otherwise engaged in fraud in obtaining or maintaining  
211 prequalification. Any revocation made pursuant to this subsection  
212 shall be made only after an opportunity for a hearing. Any person  
213 whose prequalification has been revoked pursuant to this subsection  
214 shall be disqualified for a period of two years after which the person  
215 may reapply for prequalification, except that a person whose  
216 prequalification has been revoked on the basis of conviction of a crime  
217 or engaging in fraud shall be disqualified for a period of five years  
218 after which the person may reapply for prequalification. The  
219 commissioner shall not prequalify a person whose prequalification has  
220 been revoked pursuant to this subdivision until the expiration of said  
221 two or five-year disqualification period and the commissioner is  
222 satisfied that the matters that gave rise to the revocation have been  
223 eliminated or remedied.

224 (l) The commissioner shall provide written notice of any revocation,  
225 disqualification, reduction in classification or capacity rating or  
226 reinstated prequalification to the Commissioner of Public Works, [and]

227 the Commissioner of Consumer Protection and the chairperson of the  
228 construction management oversight committee at The University of  
229 Connecticut not later than thirty days after any final determination.

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

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

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

241 Sec. 3. Section 4a-100 of the general statutes, as amended by section  
242 22 of public act 06-134, is repealed and the following is substituted in  
243 lieu thereof (*Effective October 1, 2007*):

244 (a) As used in this section: (1) "Prequalification" means  
245 prequalification issued by the Commissioner of Administrative  
246 Services to bid on a contract or perform work pursuant to a contract  
247 for the construction, reconstruction, alteration, remodeling, repair or  
248 demolition of any public building [or any other public work for work]  
249 by the state or a municipality [, except a public highway or bridge  
250 project,] or to perform work under such a contract as a substantial  
251 subcontractor; (2) "subcontractor" means a person who performs work  
252 with a value in excess of twenty-five thousand dollars for a contractor  
253 pursuant to a contract for work for the state or a municipality which is  
254 estimated to cost more than five hundred thousand dollars; (3)  
255 "principals and key personnel" includes officers, directors,  
256 shareholders, members, partners and managerial employees; (4)  
257 "aggregate work capacity rating" means the maximum amount of work

258 an applicant is capable of undertaking for any and all projects; (5)  
259 "single project limit" means the highest estimated cost of a single  
260 project that an applicant is capable of undertaking; [and] (6) "contract"  
261 means an agreement for work for the state or a municipality that is  
262 estimated to cost more than five hundred thousand dollars and is  
263 funded, in whole or in part, by state funds; (7) "public building" means  
264 a structure, paid for in whole or in part with state funds, with a roof  
265 and exterior walls or fire walls, and includes, but is not limited to,  
266 sewage treatment plants, water treatment plants, sewer or drainage  
267 systems, pump houses and other utility systems; and (8) "substantial  
268 subcontractor" means a person who performs work with a value in  
269 excess of five hundred thousand dollars for a contractor pursuant to a  
270 contract for work for the state or a municipality which is estimated to  
271 cost more than five hundred thousand dollars.

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

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

| T9  | Aggregate Work Capacity Rating    | Fee        |
|-----|-----------------------------------|------------|
| T10 |                                   |            |
| T11 | \$5,000,000.00 or less            | \$600.00   |
| T12 | \$5,000,000.01 - \$8,000,000.00   | \$750.00   |
| T13 | \$8,000,000.01 - \$10,000,000.00  | \$850.00   |
| T14 | \$10,000,000.01 - \$15,000,000.00 | \$1,000.00 |
| T15 | \$15,000,000.01 - \$20,000,000.00 | \$1,500.00 |
| T16 | \$20,000,000.01 - \$40,000,000.00 | \$2,000.00 |
| T17 | \$40,000,000.01 or more           | \$2,500.00 |

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

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

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

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

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

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

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

309 (d) The applicant shall include a statement of financial condition  
310 prepared by a certified public accountant which includes information  
311 concerning the applicant's assets and liabilities, plant and equipment,  
312 bank and credit references, bonding company and maximum bonding  
313 capacity, and other information as the commissioner deems relevant to  
314 an evaluation of the applicant's financial capacity and responsibility.

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

318 (f) The commissioner shall determine whether to prequalify an  
319 applicant on the basis of the application and on relevant past  
320 performance according to procedures and criteria set forth in  
321 regulations which the commissioner shall adopt on or before October  
322 1, 2005, in accordance with chapter 54. Such criteria shall include, at a  
323 minimum, the record of the applicant's performance, including, but  
324 not limited to, written evaluations of the applicant's performance on  
325 public or private projects, [for a period of not less than the past three  
326 years,] the applicant's past experience on projects of various size and  
327 type, the skill, ability and integrity of the applicant and any  
328 subcontractors used by the applicant, the experience and qualifications  
329 of supervisory personnel employed by the applicant, the maximum  
330 amount of work the applicant is capable of undertaking as  
331 demonstrated by the applicant's financial condition, bonding capacity,  
332 size of past projects and present and anticipated work commitments,  
333 and any other relevant criteria that the commissioner prescribes. Such  
334 regulations shall also (1) provide that the criteria considered shall be  
335 assigned separate designated numerical values and weights and that  
336 the applicant shall be assigned an overall numerical rating on the basis  
337 of all criteria, and (2) establish prequalification classifications,  
338 aggregate work capacity ratings and single project limits. Such  
339 prequalification classifications shall be used to establish the types of  
340 work a contractor or substantial subcontractor is qualified to perform  
341 and the aggregate work capacity ratings shall be used to establish the

342 maximum amount of work a contractor or substantial subcontractor is  
343 capable of undertaking.

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

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

363 (3) The commissioner may renew a prequalification certificate upon  
364 receipt of a completed update statement, any other material the  
365 commissioner requires and a nonrefundable fee in an amount not less  
366 than one-half of the application fee for the applicable aggregate work  
367 capacity rating as set forth in subsection (b) of this section.

368 (h) Not later than sixty days after receiving a completed application,  
369 the commissioner shall mail or send by electronic mail a notice to the  
370 applicant concerning the commissioner's preliminary determination  
371 regarding the conditions of the prequalification certification, a denial  
372 of certification, a reduction in the level of certification sought or  
373 nonrenewal of certification. Any applicant aggrieved by the

374 commissioner's preliminary determination may request copies of the  
375 information upon which the commissioner relied in making the  
376 preliminary determination, provided such request is made not later  
377 than ten days after the date the notice was mailed or sent by electronic  
378 mail to the applicant. Not later than twenty days after the date the  
379 notice was mailed or sent by electronic mail, the applicant may submit  
380 additional information to the commissioner with a request for  
381 reconsideration. The commissioner shall issue a final determination  
382 regarding the application not later than ninety days after the date the  
383 commissioner mailed or sent by electronic mail the notice of the  
384 preliminary determination, which ninety-day period may be extended  
385 for an additional period not to exceed ninety days if (1) the  
386 commissioner gives written notice to the applicant that the  
387 commissioner requires additional time, and (2) such notice is mailed or  
388 sent by electronic mail during the initial ninety-day period.

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

399 (j) The commissioner may revoke a contractor's or substantial  
400 subcontractor's prequalification or reduce the contractor's or  
401 substantial subcontractor's prequalification classification or aggregate  
402 work capacity ratings, after an opportunity for a hearing, if the  
403 commissioner receives additional information that supports such  
404 revocation or reduction. Prior to the initiation of such hearing or  
405 during the course of such hearing, the commissioner may suspend a  
406 contractor's prequalification certificate if the commissioner determines

407 that there is probable cause to believe that such contractor engaged in  
408 conduct that significantly undermines the skill, ability or integrity of  
409 such contractor. Any such suspension shall not exceed a period of  
410 three months and shall be accompanied by a written decision of the  
411 commissioner that sets forth the reasons for and duration of such  
412 suspension. The commissioner shall send notification of any such  
413 suspension to such contractor by certified mail, return receipt  
414 requested.

415 (k) (1) Any substantial evidence indicating fraud in obtaining or  
416 maintaining prequalification or any materially false statement in the  
417 application [or any] update statement or update bid statement may, in  
418 the discretion of the awarding authority, result in termination of any  
419 contract awarded the applicant by the awarding authority. The  
420 awarding authority shall provide written notice to the commissioner of  
421 such false statement not later than thirty days after discovering such  
422 false statement. The commissioner shall provide written notice of such  
423 false statement to the Commissioner of Public Works, [and] the  
424 Commissioner of Consumer Protection and the chair of the  
425 construction management oversight committee at The University of  
426 Connecticut not later than thirty days after discovering such false  
427 statement or receiving such notice.

428 (2) The commissioner shall deny or revoke the prequalification of  
429 any person [, after an opportunity for hearing,] if the commissioner  
430 finds that the person has included any materially false statement in  
431 such application, [or] update statement or update bid statement, has  
432 been convicted of a crime related to the procurement or performance  
433 of any public or private construction contract or, within the past five  
434 years, [or] has otherwise engaged in fraud in obtaining or maintaining  
435 prequalification. Any revocation made pursuant to this subsection  
436 shall be made only after an opportunity for a hearing. Any person  
437 whose prequalification has been revoked pursuant to this subsection  
438 shall be disqualified for a period of two years after which the person  
439 may reapply for prequalification, except that a person whose

440 prequalification has been revoked on the basis of conviction of a crime  
441 or engaging in fraud shall be disqualified for a period of five years  
442 after which the person may reapply for prequalification. The  
443 commissioner shall not prequalify a person whose prequalification has  
444 been revoked pursuant to this subdivision until the expiration of said  
445 two-year, five-year, or other applicable disqualification period and the  
446 commissioner is satisfied that the matters that gave rise to the  
447 revocation have been eliminated or remedied.

448 (l) The commissioner shall provide written notice of any revocation,  
449 disqualification, reduction in classification or capacity rating or  
450 reinstated prequalification to the Commissioner of Public Works, [and]  
451 the Commissioner of Consumer Protection and the chairperson of the  
452 construction management oversight committee at The University of  
453 Connecticut not later than thirty days after any final determination.

454 (m) The provisions of this section and section 4a-101 shall not apply  
455 to subcontractors who are not substantial subcontractors.

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

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

466 [(p) The commissioner shall adopt regulations, in accordance with  
467 chapter 54, to establish a schedule of application fees for substantial  
468 contractors.]

469 Sec. 4. Subsection (c) of section 4a-101 of the general statutes, as

470 amended by section 23 of public act 06-134, is repealed and the  
471 following is substituted in lieu thereof (*Effective October 1, 2007*):

472 (c) As used in this section, "public agency" means a public agency,  
473 as defined in section 1-200, "contract" means an agreement for work for  
474 the state or a municipality that is estimated to cost more than five  
475 hundred thousand dollars and is funded, in whole or in part, by state  
476 funds, "subcontractor" means a person who performs work with a  
477 value in excess of twenty-five thousand dollars for a contractor  
478 pursuant to a contract [for work for the state or a municipality which is  
479 estimated to cost more than five hundred thousand dollars] and  
480 "substantial subcontractor" means a substantial subcontractor, as  
481 defined in section 4a-100, as amended by this act.

482 Sec. 5. Section 4b-91 of the general statutes is repealed and the  
483 following is substituted in lieu thereof (*Effective from passage*):

484 (a) Every contract for the construction, reconstruction, alteration,  
485 remodeling, repair or demolition of any public building for work by  
486 the state, which is estimated to cost more than five hundred thousand  
487 dollars, except a contract awarded by the Commissioner of Public  
488 Works for (1) a community court project, as defined in subsection (j) of  
489 section 4b-55, (2) the downtown Hartford higher education center  
490 project, as defined in subsection (l) of section 4b-55, (3) a correctional  
491 facility project, as defined in subsection (m) of section 4b-55, (4) a  
492 juvenile detention center project, as defined in subsection (n) of section  
493 4b-55, or (5) a student residential facility for the Connecticut State  
494 University system that is a priority higher education facility project, as  
495 defined in subsection (f) of section 4b-55, shall be awarded to the  
496 lowest responsible and qualified general bidder who is prequalified  
497 pursuant to section 4a-100, as amended by this act, on the basis of  
498 competitive bids in accordance with the procedures set forth in this  
499 chapter, after the Commissioner of Public Works or, in the case of a  
500 contract for the construction of or work on a building under the  
501 supervision and control of the Joint Committee on Legislative

502 Management of the General Assembly, the joint committee or, in the  
503 case of a contract for the construction of or work on a building under  
504 the supervision and control of one of the constituent units of the state  
505 system of higher education, the constituent unit, has invited such bids  
506 by advertisements inserted at least once in one or more newspapers  
507 having a circulation in each county in the state. The Commissioner of  
508 Public Works, the joint committee or the constituent unit, as the case  
509 may be, shall indicate the prequalification classification required for  
510 the contract in such advertisement. As used in this section,  
511 "prequalification classification" means the prequalification  
512 classifications established by the Commissioner of Administrative  
513 Services pursuant to section 4a-100, as amended by this act.

514 (b) The Commissioner of Public Works, the joint committee or the  
515 constituent unit, as the case may be, shall determine the manner of  
516 submission and the conditions and requirements of such bids, and the  
517 time within which the bids shall be submitted, consistent with the  
518 provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be  
519 made within sixty days after the opening of such bids. If the general  
520 bidder selected as the general contractor fails to perform the general  
521 contractor's agreement to execute a contract in accordance with the  
522 terms of the general contractor's general bid and furnish a performance  
523 bond and also a labor and materials or payment bond to the amount  
524 specified in the general bid form, an award shall be made to the next  
525 lowest responsible and qualified general bidder. No employee of the  
526 Department of Public Works, the joint committee or a constituent unit  
527 with decision-making authority concerning the award of a contract  
528 and no public official, as defined in section 1-79, may communicate  
529 with any bidder prior to the award of the contract if the  
530 communication results in the bidder receiving information about the  
531 contract that is not available to other bidders, except that if the lowest  
532 responsible and qualified bidder's price submitted is in excess of funds  
533 available to make an award, the Commissioner of Public Works, the  
534 Joint Committee on Legislative Management or the constituent unit, as  
535 the case may be, may negotiate with such bidder and award the

536 contract on the basis of the funds available, without change in the  
537 contract specifications, plans and other requirements. If the award of a  
538 contract on said basis is refused by such bidder, the Commissioner of  
539 Public Works, the Joint Committee on Legislative Management or the  
540 constituent unit, as the case may be, may negotiate with other  
541 contractors who submitted bids in ascending order of bid prices  
542 without change in the contract, specifications, plans and other  
543 requirements. In the event of negotiation with general bidders as  
544 provided in this section, the general bidder involved may negotiate  
545 with subcontractors on the same basis, provided such general bidder  
546 shall negotiate only with subcontractors named on such general  
547 bidder's general bid form.

548 (c) [On and after October 1, 2004, no] No person may bid on a  
549 contract or perform work pursuant to a contract for the construction,  
550 reconstruction, alteration, remodeling, repair or demolition of any  
551 public building for work by the state or a municipality, which is  
552 estimated to cost more than five hundred thousand dollars and is paid  
553 for, in whole or in part, with state funds, unless the person is  
554 prequalified in accordance with section 4a-100, as amended by this act.

555 (d) [On and after October 1, 2004, each] Each bid submitted for a  
556 contract described in subsection (c) of this section shall include a copy  
557 of a prequalification certificate issued by the Commissioner of  
558 Administrative Services. The bid shall also be accompanied by an  
559 update bid statement in such form as the Commissioner of  
560 Administrative Services prescribes. The form for such update bid  
561 statement shall provide space for information regarding all projects  
562 completed by the bidder since the date the bidder's prequalification  
563 certificate was issued or renewed, all projects the bidder currently has  
564 under contract, including the percentage of work on such projects not  
565 completed, the names and qualifications of the personnel who will  
566 have supervisory responsibility for the performance of the contract,  
567 any significant changes in the bidder's financial position or corporate  
568 structure since the date the certificate was issued or renewed, any

569 change in the contractor's qualification status as determined by the  
570 provisions of subdivision (6) of subsection (c) of section 4a-100, as  
571 amended by this act, and such other relevant information as the  
572 Commissioner of Administrative Services prescribes. Any bid  
573 submitted without a copy of the prequalification certificate and an  
574 update bid statement shall be invalid. Any public agency that accepts a  
575 bid submitted without a copy of such prequalification certificate and  
576 an update bid statement, as required by this section, shall be ineligible  
577 for the receipt of funds related to such bid.

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

586 (f) Any person who receives information from a state employee or  
587 public official that is not available to the general public concerning any  
588 construction, reconstruction, alteration, remodeling, repair or  
589 demolition project on a public building prior to the date that an  
590 advertisement for bids on the project is published shall be disqualified  
591 from bidding on the project.

592 (g) Notwithstanding the provisions of this chapter regarding  
593 competitive bidding procedures, the commissioner may select and  
594 interview at least three responsible and qualified general contractors  
595 who are prequalified pursuant to section 4a-100, as amended by this  
596 act, and submit the three selected contractors to the construction  
597 services award panels process described in section 4b-100a and any  
598 regulation adopted by the commissioner. The commissioner may  
599 negotiate with the successful bidder a contract which is both fair and  
600 reasonable to the state for a community court project, as defined in

601 subsection (j) of section 4b-55, the downtown Hartford higher  
602 education center project, as defined in subsection (l) of section 4b-55, a  
603 correctional facility project, as defined in subsection (m) of section 4b-  
604 55, a juvenile detention center project, as defined in subsection (n) of  
605 section 4b-55, or a student residential facility for the Connecticut State  
606 University system that is a priority higher education facility project, as  
607 defined in subsection (f) of section 4b-55. The Commissioner of Public  
608 Works, prior to entering any such contract or performing any work on  
609 such project, shall submit such contract to the State Properties Review  
610 Board for review and approval or disapproval by the board, pursuant  
611 to subsection (i) of this section. Any general contractor awarded a  
612 contract pursuant to this subsection shall be subject to the same  
613 requirements concerning the furnishing of bonds as a contractor  
614 awarded a contract pursuant to subsection (b) of this section.

615 (h) [On and after October 1, 2004, any] Any agency that seeks to  
616 have a project awarded without being subject to competitive bidding  
617 procedures shall certify to the joint committee of the General Assembly  
618 having cognizance of matters relating to government administration  
619 and elections that the project is of such an emergency nature that an  
620 exception to the competitive bidding procedures of this section is  
621 required. Such certification shall include input from all affected  
622 agencies, detail the need for the exception and include any relevant  
623 documentation.

624 (i) In the event that the General Assembly approves legislation  
625 authorizing an exception to the competitive bidding process for a  
626 project, the State Properties Review Board shall complete a review of  
627 the contract for such project and approve or disapprove such contract  
628 no later than thirty days after the Commissioner of Public Works  
629 submits such contract to the board. Such review shall be conducted in  
630 accordance with the provisions of section 4b-3. In the event that such  
631 review does not occur within the thirty-day period prescribed by this  
632 subsection, such contract shall be deemed to be approved.

633 Sec. 6. Section 4b-92 of the general statutes is repealed and the  
634 following is substituted in lieu thereof (*Effective from passage*):

635 As used in this chapter and except as otherwise provided, the words  
636 "lowest responsible and qualified bidder" shall mean the bidder who is  
637 prequalified pursuant to section 4a-100, as amended by this act, and  
638 whose bid is the lowest of those bidders possessing the skill, ability  
639 and integrity necessary to faithful performance of the work based on  
640 objective criteria considering past performance and information  
641 contained in the update bid statement submitted pursuant to section  
642 4b-91, as amended by this act. Essential information in regard to such  
643 qualifications shall be submitted with the bid in such form as the  
644 awarding authority may require by specification in the bid documents  
645 and on the bid form. Every general bid shall be accompanied by a bid  
646 bond or a certified check in an amount which shall be ten per cent of  
647 the bid, provided no such bid bond or certified check shall be required  
648 in relation to any general bid in which the total estimated cost of labor  
649 and materials under the contract with respect to which such general  
650 bid is submitted is less than fifty thousand dollars. Failure to execute a  
651 contract awarded as specified and bid shall result in the forfeiture of  
652 such bid bond or certified check. In considering past performance the  
653 awarding authority shall evaluate the skill, ability and integrity of  
654 bidders in terms of the bidders' fulfillment of contract obligations and  
655 of the bidders' experience or lack of experience with projects of the  
656 nature and scope of the project for which the bids are submitted.

657 Sec. 7. Subdivision (2) of subsection (g) of section 9-612 of the  
658 general statutes is repealed and the following is substituted in lieu  
659 thereof (*Effective from passage*):

660 (2) On and after December 31, 2006:

661 (A) No principal of a state contractor or prospective state contractor,  
662 with regard to a state contract, bid solicitation or request for proposals  
663 with or from a state agency in the executive branch or a quasi-public  
664 agency or a holder of a valid prequalification certificate, shall make a

665 contribution to, or solicit contributions on behalf of (i) an exploratory  
666 committee or candidate committee established by a candidate for  
667 nomination or election to the office of Governor, Lieutenant Governor,  
668 Attorney General, State Comptroller, Secretary of the State or State  
669 Treasurer, (ii) a political committee authorized to make contributions  
670 or expenditures to or for the benefit of such candidates, or (iii) a party  
671 committee;

672 (B) No principal of a state contractor or prospective state contractor,  
673 with regard to a state contract, bid solicitation or request for proposals  
674 with or from the General Assembly or a holder of a valid  
675 prequalification certificate, shall make a contribution to, or solicit  
676 contributions on behalf of (i) an exploratory committee or candidate  
677 committee established by a candidate for nomination or election to the  
678 office of state senator or state representative, (ii) a political committee  
679 authorized to make contributions or expenditures to or for the benefit  
680 of such candidates, or (iii) a party committee;

681 (C) If a principal of a state contractor makes or solicits a contribution  
682 prohibited under subparagraph (A) or (B) of this subdivision, the  
683 contracting state agency or quasi-public agency may, in the case of a  
684 state contract executed on or after December 7, 2005, void the existing  
685 contract with said contractor, and no state agency or quasi-public  
686 agency shall award the state contractor a state contract or an extension  
687 or an amendment to a state contract for one year after the election for  
688 which such contribution is made or solicited. Each state contract shall  
689 include the provisions of subparagraph (A) or (B) of this subdivision,  
690 whichever is applicable, and this subparagraph as conditions of the  
691 contract; and

692 (D) If a principal of a prospective state contractor makes or solicits a  
693 contribution prohibited under subparagraph (A) or (B) of this  
694 subdivision, no state agency or quasi-public agency shall award the  
695 prospective state contractor the contract described in the bid  
696 solicitation or request for proposals, or any other state contract for one

697 year after the election for which such contribution is made or solicited.  
698 Each state agency and quasi-public agency shall include the provisions  
699 of subparagraph (A) or (B) of this subdivision, whichever is applicable,  
700 and this subparagraph in each bid solicitation and request for  
701 proposals issued by the agency. [, and the] The Commissioner of  
702 Administrative Services shall [include such provisions in each  
703 prequalification issued by said commissioner] notify applicants for  
704 prequalification about the provisions of subparagraphs (A), (B) and (D)  
705 of this subdivision during the prequalification application process. The  
706 chief executive officer of each prospective state contractor shall: (i)  
707 Inform each individual described in subparagraph (F) of subdivision  
708 (1) of this subsection with regard to said prospective state contractor  
709 concerning the provisions of subparagraph (A) or (B) of this  
710 subdivision, whichever is applicable, and this subparagraph, (ii) certify  
711 in a sworn statement that no such individual will make or solicit a  
712 contribution in violation of the provisions of subparagraph (A) or (B)  
713 of this subdivision, whichever is applicable, and this subparagraph,  
714 and (iii) acknowledge in writing that if any such contribution is made  
715 or solicited, the prospective state contractor shall be disqualified from  
716 being awarded the contract described in the bid solicitation or request  
717 for proposals or being awarded any other state contract for one year  
718 after the election for which such contribution is made or solicited.

719 Sec. 8. Section 49-41 of the general statutes is amended by adding  
720 subsection (f) as follows (*Effective from passage*):

721 (NEW) (f) Whenever a surety bond is required in connection with a  
722 contract for the construction, reconstruction, alteration, remodeling,  
723 repair or demolition of any public building for work by the state or a  
724 municipality, that is estimated to cost more than five hundred  
725 thousand dollars and is paid for, in whole or in part, with state funds,  
726 the surety contract between the contractor named as principal in the  
727 bond and the surety that issues such bond shall contain the following  
728 provision: "In the event that the surety assumes the contract or obtains  
729 a bid or bids for completion of the contract, the surety shall ensure that

730 the contractor chosen to complete the contract is prequalified pursuant  
731 to section 4a-100 of the Connecticut general statutes in the requisite  
732 classification and has the aggregate work capacity rating and single  
733 project limit necessary to complete the contract".

|   |                        |             |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                        |             |
| Section 1   | <i>from passage</i>    | 4a-63(a)    |
| Sec. 2  | <i>from passage</i>    | 4a-100      |
| Sec. 3  | <i>October 1, 2007</i> | 4a-100      |
| Sec. 4  | <i>October 1, 2007</i> | 4a-101(c)   |
| Sec. 5  | <i>from passage</i>    | 4b-91       |
| Sec. 6  | <i>from passage</i>    | 4b-92       |
| Sec. 7  | <i>from passage</i>    | 9-612(g)(2) |
| Sec. 8  | <i>from passage</i>    | 49-41       |

**Statement of Purpose:**

To make certain changes to the prequalification program administered by the Department of Administrative Services and the state's contracting procedures.

*[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.]*