



General Assembly

Substitute Bill No. 1063

January Session, 2007

* SB01063GAE 031907 *

**AN ACT CONCERNING STATE CONTRACTING AND THE
PREQUALIFICATION PROGRAM ADMINISTERED BY THE
DEPARTMENT OF ADMINISTRATIVE SERVICES AND THE HIRING
AUTHORITY OF THE FREEDOM OF INFORMATION COMMISSION.**

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2 repealed and the following is substituted in lieu thereof (*Effective from*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 Section 4a-100 of the general statutes is repealed and the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 or any other construction project administered by the
30 Department of Transportation; (2) "subcontractor" means a person who
31 performs work with a value in excess of twenty-five thousand dollars
32 for a contractor pursuant to a contract for work for the state or a
33 municipality which is estimated to cost more than five hundred
34 thousand dollars; (3) "principals and key personnel" includes officers,
35 directors, shareholders, members, partners and managerial employees;
36 (4) "aggregate work capacity rating" means the maximum amount of
37 work an applicant is capable of undertaking for any and all projects;
38 [and] (5) "single project limit" means the highest estimated cost of a
39 single project that an applicant is capable of undertaking; and (6)
40 "contract" means an agreement for work for the state or a municipality
41 that is estimated to cost more than five hundred thousand dollars and
42 is funded, in whole or in part, by state funds.

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

49 (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

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

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

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

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

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

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

69 (6) A statement of whether (A) the applicant has been disqualified
70 pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B)

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

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

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

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

93 (f) The commissioner shall determine whether to prequalify an
94 applicant on the basis of the application and on relevant past
95 performance according to procedures and criteria set forth in
96 regulations which the commissioner shall adopt on or before October
97 1, 2005, in accordance with chapter 54. Such criteria shall include, at a
98 minimum, the record of the applicant's performance, including, but
99 not limited to, written evaluations of the applicant's performance on
100 public or private projects within the past five years, the applicant's
101 past experience on projects of various size and type, the skill, ability
102 and integrity of the applicant and any subcontractors used by the

103 applicant, the experience and qualifications of supervisory personnel
104 employed by the applicant, the maximum amount of work the
105 applicant is capable of undertaking as demonstrated by the applicant's
106 financial condition, bonding capacity, size of past projects and present
107 and anticipated work commitments, and any other relevant criteria
108 that the commissioner prescribes. Such regulations shall also (1)
109 provide that the criteria considered shall be assigned separate
110 designated numerical values and weights and that the applicant shall
111 be assigned an overall numerical rating on the basis of all criteria, and
112 (2) establish prequalification classifications, aggregate work capacity
113 ratings and single project limits. Such prequalification classifications
114 shall be used to establish the types of work a contractor is qualified to
115 perform and the aggregate work capacity ratings shall be used to
116 establish the maximum amount of work a contractor is capable of
117 undertaking.

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

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

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

143 (h) Not later than sixty days after receiving a completed application,
144 the commissioner shall mail or send by electronic mail a notice to the
145 applicant concerning the commissioner's preliminary determination
146 regarding the conditions of the prequalification certification, a denial
147 of certification, a reduction in the level of certification sought or
148 nonrenewal of certification. Any applicant aggrieved by the
149 commissioner's preliminary determination may request copies of the
150 information upon which the commissioner relied in making the
151 preliminary determination, provided such request is made not later
152 than ten days after the date the notice was mailed or sent by electronic
153 mail to the applicant. Not later than twenty days after the date the
154 notice was mailed or sent by electronic mail, the applicant may submit
155 additional information to the commissioner with a request for
156 reconsideration. The commissioner shall issue a final determination
157 regarding the application not later than ninety days after the date the
158 commissioner mailed or sent by electronic mail the notice of the
159 preliminary determination, which ninety-day period may be extended
160 for an additional period not to exceed ninety days if (1) the
161 commissioner gives written notice to the applicant that the
162 commissioner requires additional time, and (2) such notice is mailed or
163 sent by electronic mail during the initial ninety-day period.

164 (i) The commissioner may not issue or renew a prequalification
165 certificate to any contractor (1) who is disqualified pursuant to section
166 31-57c or 31-57d, or (2) who has a principal or key personnel who,
167 within the past five years, has a conviction or has entered a plea of
168 guilty or nolo contendere for or has admitted to commission of an act
169 or omission that reasonably could have resulted in disqualification
170 pursuant to any provision of subdivisions (1) to (3), inclusive, of

171 subsection (d) of section 31-57c or subdivisions (1) to (3), inclusive, of
172 subsection (d) of section 31-57d, as determined by the commissioner.

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

187 (k) (1) Any substantial evidence of fraud in obtaining or
188 maintaining prequalification or any materially false statement in the
189 application, [or any] update statement or update bid statement may, in
190 the discretion of the awarding authority, result in termination of any
191 contract awarded the applicant by the awarding authority. The
192 awarding authority shall provide written notice to the commissioner of
193 such false statement not later than thirty days after discovering such
194 false statement. The commissioner shall provide written notice of such
195 false statement to the Commissioner of Public Works, [and] the
196 Commissioner of Consumer Protection and the chair of the
197 construction management oversight committee at The University of
198 Connecticut not later than thirty days after discovering such false
199 statement or receiving such notice.

200 (2) The commissioner shall deny or revoke the prequalification of
201 any person [, after an opportunity for hearing,] if the commissioner
202 finds that the person has included any materially false statement in
203 such application, [or] update statement or update bid statement, has

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

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

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

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

232 (o) Any applicant aggrieved by the commissioner's final
233 determination concerning a preliminary determination, a denial of
234 certification, a reduction in prequalification classification or aggregate
235 work capacity rating or a revocation or nonrenewal of certification

236 may appeal to the Superior Court in accordance with section 4-183.

237 Sec. 3. Section 4a-100 of the general statutes, as amended by section
238 22 of public act 06-134, is repealed and the following is substituted in
239 lieu thereof (*Effective October 1, 2007*):

240 (a) As used in this section: (1) "Prequalification" means
241 prequalification issued by the Commissioner of Administrative
242 Services to bid on a contract or perform work pursuant to a contract
243 for the construction, reconstruction, alteration, remodeling, repair or
244 demolition of any public building or any other public work [for work]
245 by the state or a municipality, except a public highway or bridge
246 project or any other construction project administered by the
247 Department of Transportation, or to perform work under such a
248 contract as a substantial subcontractor; (2) "subcontractor" means a
249 person who performs work with a value in excess of twenty-five
250 thousand dollars for a contractor pursuant to a contract for work for
251 the state or a municipality which is estimated to cost more than five
252 hundred thousand dollars; (3) "principals and key personnel" includes
253 officers, directors, shareholders, members, partners and managerial
254 employees; (4) "aggregate work capacity rating" means the maximum
255 amount of work an applicant is capable of undertaking for any and all
256 projects; (5) "single project limit" means the highest estimated cost of a
257 single project that an applicant is capable of undertaking; [and] (6)
258 "contract" means an agreement for work for the state or a municipality
259 that is estimated to cost more than five hundred thousand dollars and
260 is funded, in whole or in part, by state funds; and (7) "substantial
261 subcontractor" means a person who performs work with a value in
262 excess of five hundred thousand dollars for a contractor pursuant to a
263 contract for work for the state or a municipality which is estimated to
264 cost more than five hundred thousand dollars.

265 (b) (1) Any person may apply for prequalification to the Department
266 of Administrative Services. Such application shall be made on such
267 form as the Commissioner of Administrative Services prescribes and
268 shall be accompanied by a nonrefundable application fee as set forth in

269 subdivision (2) of this subsection. The application shall be signed
270 under penalty of false statement.

271 (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

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

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

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

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

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

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

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

302 (d) The applicant shall include a statement of financial condition
303 prepared by a certified public accountant which includes information
304 concerning the applicant's assets and liabilities, plant and equipment,
305 bank and credit references, bonding company and maximum bonding
306 capacity, and other information as the commissioner deems relevant to
307 an evaluation of the applicant's financial capacity and responsibility.

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

311 (f) The commissioner shall determine whether to prequalify an
312 applicant on the basis of the application and on relevant past
313 performance according to procedures and criteria set forth in
314 regulations which the commissioner shall adopt on or before October
315 1, 2005, in accordance with chapter 54. Such criteria shall include, at a
316 minimum, the record of the applicant's performance, including, but
317 not limited to, written evaluations of the applicant's performance on
318 public or private projects, [for a period of not less than the past three

319 years,] the applicant's past experience on projects of various size and
320 type, the skill, ability and integrity of the applicant and any
321 subcontractors used by the applicant, the experience and qualifications
322 of supervisory personnel employed by the applicant, the maximum
323 amount of work the applicant is capable of undertaking as
324 demonstrated by the applicant's financial condition, bonding capacity,
325 size of past projects and present and anticipated work commitments,
326 and any other relevant criteria that the commissioner prescribes. Such
327 regulations shall also (1) provide that the criteria considered shall be
328 assigned separate designated numerical values and weights and that
329 the applicant shall be assigned an overall numerical rating on the basis
330 of all criteria, and (2) establish prequalification classifications,
331 aggregate work capacity ratings and single project limits. Such
332 prequalification classifications shall be used to establish the types of
333 work a contractor or substantial subcontractor is qualified to perform
334 and the aggregate work capacity ratings shall be used to establish the
335 maximum amount of work a contractor or substantial subcontractor is
336 capable of undertaking.

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

351 (2) A prequalified contractor or substantial subcontractor may apply
352 at any time for additional prequalification classifications, aggregate

353 work capacity ratings or single project limits by submitting the
354 applicable increase in fee, a completed update statement [,] and other
355 information the commissioner requires.

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

361 (h) Not later than sixty days after receiving a completed application,
362 the commissioner shall mail or send by electronic mail a notice to the
363 applicant concerning the commissioner's preliminary determination
364 regarding the conditions of the prequalification certification, a denial
365 of certification, a reduction in the level of certification sought or
366 nonrenewal of certification. Any applicant aggrieved by the
367 commissioner's preliminary determination may request copies of the
368 information upon which the commissioner relied in making the
369 preliminary determination, provided such request is made not later
370 than ten days after the date the notice was mailed or sent by electronic
371 mail to the applicant. Not later than twenty days after the date the
372 notice was mailed or sent by electronic mail, the applicant may submit
373 additional information to the commissioner with a request for
374 reconsideration. The commissioner shall issue a final determination
375 regarding the application not later than ninety days after the date the
376 commissioner mailed or sent by electronic mail the notice of the
377 preliminary determination, which ninety-day period may be extended
378 for an additional period not to exceed ninety days if (1) the
379 commissioner gives written notice to the applicant that the
380 commissioner requires additional time, and (2) such notice is mailed or
381 sent by electronic mail during the initial ninety-day period.

382 (i) The commissioner may not issue or renew a prequalification
383 certificate to any contractor or substantial subcontractor (1) who is
384 disqualified pursuant to section 31-57c or 31-57d, or (2) who has a
385 principal or key personnel who, within the past five years, has a

386 conviction or has entered a plea of guilty or nolo contendere for or has
387 admitted to commission of an act or omission that reasonably could
388 have resulted in disqualification pursuant to any provision of
389 subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57c or
390 subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57d, as
391 determined by the commissioner.

392 (j) The commissioner may revoke a contractor's or substantial
393 subcontractor's prequalification or reduce the contractor's or
394 substantial subcontractor's prequalification classification or aggregate
395 work capacity ratings, after an opportunity for a hearing, if the
396 commissioner receives additional information that supports such
397 revocation or reduction. During the course of such hearing process, the
398 commissioner may suspend a contractor's prequalification certificate if
399 the commissioner determines that there is probable cause to believe
400 that such contractor engaged in conduct that significantly undermines
401 the skill, ability or integrity of such contractor. Any such suspension
402 shall not exceed a period of three months and shall be accompanied by
403 a written decision of the commissioner that sets forth the reasons for
404 and duration of such suspension. The commissioner shall send
405 notification of any such suspension to such contractor by certified mail,
406 return receipt requested.

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

420 (2) The commissioner shall deny or revoke the prequalification of
421 any person [, after an opportunity for hearing,] if the commissioner
422 finds that the person has included any materially false statement in
423 such application, [or] update statement or update bid statement, has
424 been convicted of a crime related to the procurement or performance
425 of any public or private construction contract or, within the past five
426 years, [or] has otherwise engaged in fraud in obtaining or maintaining
427 prequalification. Any revocation made pursuant to this subsection
428 shall be made only after an opportunity for a hearing. Any person
429 whose prequalification has been revoked pursuant to this subsection
430 shall be disqualified for a period of two years after which the person
431 may reapply for prequalification, except that a person whose
432 prequalification has been revoked on the basis of conviction of a crime
433 or engaging in fraud shall be disqualified for a period of five years
434 after which the person may reapply for prequalification. The
435 commissioner shall not prequalify a person whose prequalification has
436 been revoked pursuant to this subdivision until the expiration of said
437 two-year, five-year, or other applicable disqualification period and the
438 commissioner is satisfied that the matters that gave rise to the
439 revocation have been eliminated or remedied.

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

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

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

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

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

461 Sec. 4. Subsection (c) of section 4a-101 of the general statutes is
462 repealed and the following is substituted in lieu thereof (*Effective from*
463 *passage*):

464 (c) As used in this section, "public agency" means a public agency,
465 as defined in section 1-200, "contract" means an agreement for work for
466 the state or a municipality that is estimated to cost more than five
467 hundred thousand dollars and is funded, in whole or in part, by state
468 funds and "subcontractor" means a person who performs work with a
469 value in excess of twenty-five thousand dollars for a contractor
470 pursuant to a contract. [for work for the state or a municipality which
471 is estimated to cost more than five hundred thousand dollars.]

472 Sec. 5. Subsection (c) of section 4a-101 of the general statutes, as
473 amended by section 23 of public act 06-134, is repealed and the
474 following is substituted in lieu thereof (*Effective October 1, 2007*):

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

485 Sec. 6. Section 4b-91 of the general statutes is repealed and the
486 following is substituted in lieu thereof (*Effective from passage*):

487 (a) Every contract for the construction, reconstruction, alteration,
488 remodeling, repair or demolition of any public building [for] or any
489 other public work by the state except a public highway or bridge
490 project or any other construction project administered by the
491 Department of Transportation, which is estimated to cost more than
492 five hundred thousand dollars, except a contract awarded by the
493 Commissioner of Public Works for (1) a community court project, as
494 defined in subsection (j) of section 4b-55, (2) the downtown Hartford
495 higher education center project, as defined in subsection (l) of section
496 4b-55, (3) a correctional facility project, as defined in subsection (m) of
497 section 4b-55, (4) a juvenile detention center project, as defined in
498 subsection (n) of section 4b-55, or (5) a student residential facility for
499 the Connecticut State University system that is a priority higher
500 education facility project, as defined in subsection (f) of section 4b-55,
501 shall be awarded to the lowest responsible and qualified general
502 bidder who is prequalified pursuant to section 4a-100, as amended by
503 this act, on the basis of competitive bids in accordance with the
504 procedures set forth in this chapter, after the Commissioner of Public
505 Works or, in the case of a contract for the construction of or work on a
506 building under the supervision and control of the Joint Committee on
507 Legislative Management of the General Assembly, the joint committee
508 or, in the case of a contract for the construction of or work on a
509 building under the supervision and control of one of the constituent
510 units of the state system of higher education, the constituent unit, has
511 invited such bids by advertisements inserted at least once in one or
512 more newspapers having a circulation in each county in the state. The
513 Commissioner of Public Works, the joint committee or the constituent
514 unit, as the case may be, shall indicate the prequalification
515 classification required for the contract in such advertisement. As used
516 in this section, "prequalification classification" means the
517 prequalification classifications established by the Commissioner of
518 Administrative Services pursuant to section 4a-100, as amended by this

519 act.

520 (b) The Commissioner of Public Works, the joint committee or the
521 constituent unit, as the case may be, shall determine the manner of
522 submission and the conditions and requirements of such bids, and the
523 time within which the bids shall be submitted, consistent with the
524 provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be
525 made within sixty days after the opening of such bids. If the general
526 bidder selected as the general contractor fails to perform the general
527 contractor's agreement to execute a contract in accordance with the
528 terms of the general contractor's general bid and furnish a performance
529 bond and also a labor and materials or payment bond to the amount
530 specified in the general bid form, an award shall be made to the next
531 lowest responsible and qualified general bidder. No employee of the
532 Department of Public Works, the joint committee or a constituent unit
533 with decision-making authority concerning the award of a contract
534 and no public official, as defined in section 1-79, may communicate
535 with any bidder prior to the award of the contract if the
536 communication results in the bidder receiving information about the
537 contract that is not available to other bidders, except that if the lowest
538 responsible and qualified bidder's price submitted is in excess of funds
539 available to make an award, the Commissioner of Public Works, the
540 Joint Committee on Legislative Management or the constituent unit, as
541 the case may be, may negotiate with such bidder and award the
542 contract on the basis of the funds available, without change in the
543 contract specifications, plans and other requirements. If the award of a
544 contract on said basis is refused by such bidder, the Commissioner of
545 Public Works, the Joint Committee on Legislative Management or the
546 constituent unit, as the case may be, may negotiate with other
547 contractors who submitted bids in ascending order of bid prices
548 without change in the contract, specifications, plans and other
549 requirements. In the event of negotiation with general bidders as
550 provided in this section, the general bidder involved may negotiate
551 with subcontractors on the same basis, provided such general bidder
552 shall negotiate only with subcontractors named on such general

553 bidder's general bid form.

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

561 (d) [On and after October 1, 2004, each] Each bid submitted for a
562 contract described in subsection (c) of this section shall include a copy
563 of a prequalification certificate issued by the Commissioner of
564 Administrative Services. The bid shall also be accompanied by an
565 update bid statement in such form as the Commissioner of
566 Administrative Services prescribes. The form for such update bid
567 statement shall provide space for information regarding all projects
568 completed by the bidder since the date the bidder's prequalification
569 certificate was issued or renewed, all projects the bidder currently has
570 under contract, including the percentage of work on such projects not
571 completed, the names and qualifications of the personnel who will
572 have supervisory responsibility for the performance of the contract,
573 any significant changes in the bidder's financial position or corporate
574 structure since the date the certificate was issued or renewed, any
575 change in the contractor's qualification status as determined by the
576 provisions of subdivision (6) of subsection (c) of section 4a-100, as
577 amended by this act, and such other relevant information as the
578 Commissioner of Administrative Services prescribes. Any bid
579 submitted without a copy of the prequalification certificate and an
580 update bid statement shall be invalid. Any public agency that accepts a
581 bid submitted without a copy of such prequalification certificate and
582 an update bid statement, as required by this section, may become
583 ineligible for the receipt of funds related to such bid.

584 (e) Any person who bids on a contract described in subsection (c) of
585 this section shall certify under penalty of false statement at the

586 conclusion of the bidding process that the information in the bid is
587 true, that there has been no substantial change in the bidder's financial
588 position or corporate structure since the bidder's most recent
589 prequalification certificate was issued or renewed, other than those
590 changes noted in the update bid statement, and that the bid was made
591 without fraud or collusion with any person.

592 (f) Any person who receives information from a state employee or
593 public official that is not available to the general public concerning any
594 construction, reconstruction, alteration, remodeling, repair or
595 demolition project on a public building prior to the date that an
596 advertisement for bids on the project is published shall be disqualified
597 from bidding on the project.

598 (g) Notwithstanding the provisions of this chapter regarding
599 competitive bidding procedures, the commissioner may select and
600 interview at least three responsible and qualified general contractors
601 who are prequalified pursuant to section 4a-100, as amended by this
602 act, and submit the three selected contractors to the construction
603 services award panels process described in section 4b-100a and any
604 regulation adopted by the commissioner. The commissioner may
605 negotiate with the successful bidder a contract which is both fair and
606 reasonable to the state for a community court project, as defined in
607 subsection (j) of section 4b-55, the downtown Hartford higher
608 education center project, as defined in subsection (l) of section 4b-55, a
609 correctional facility project, as defined in subsection (m) of section 4b-
610 55, a juvenile detention center project, as defined in subsection (n) of
611 section 4b-55, or a student residential facility for the Connecticut State
612 University system that is a priority higher education facility project, as
613 defined in subsection (f) of section 4b-55. The Commissioner of Public
614 Works, prior to entering any such contract or performing any work on
615 such project, shall submit such contract to the State Properties Review
616 Board for review and approval or disapproval by the board, pursuant
617 to subsection (i) of this section. Any general contractor awarded a
618 contract pursuant to this subsection shall be subject to the same
619 requirements concerning the furnishing of bonds as a contractor

620 awarded a contract pursuant to subsection (b) of this section.

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

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

639 Sec. 7. Section 4b-92 of the general statutes is repealed and the
640 following is substituted in lieu thereof (*Effective from passage*):

641 As used in this chapter and except as otherwise provided, the words
642 "lowest responsible and qualified bidder" shall mean the bidder who is
643 prequalified pursuant to section 4a-100, as amended by this act, and
644 whose bid is the lowest of those bidders possessing the skill, ability
645 and integrity necessary to faithful performance of the work based on
646 objective criteria considering past performance and information
647 contained in the update bid statement submitted pursuant to section
648 4b-91, as amended by this act. Essential information in regard to such
649 qualifications shall be submitted with the bid in such form as the
650 awarding authority may require by specification in the bid documents
651 and on the bid form. Every general bid shall be accompanied by a bid

652 bond or a certified check in an amount which shall be ten per cent of
653 the bid, provided no such bid bond or certified check shall be required
654 in relation to any general bid in which the total estimated cost of labor
655 and materials under the contract with respect to which such general
656 bid is submitted is less than fifty thousand dollars. Failure to execute a
657 contract awarded as specified and bid shall result in the forfeiture of
658 such bid bond or certified check. In considering past performance the
659 awarding authority shall evaluate the skill, ability and integrity of
660 bidders in terms of the bidders' fulfillment of contract obligations and
661 of the bidders' experience or lack of experience with projects of the
662 nature and scope of the project for which the bids are submitted.

663 Sec. 8. Subdivision (2) of subsection (g) of section 9-612 of the
664 general statutes is repealed and the following is substituted in lieu
665 thereof (*Effective from passage*):

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

667 (A) No principal of a state contractor or prospective state contractor,
668 with regard to a state contract, bid solicitation or request for proposals
669 with or from a state agency in the executive branch or a quasi-public
670 agency or a holder of a valid prequalification certificate, shall make a
671 contribution to, or solicit contributions on behalf of (i) an exploratory
672 committee or candidate committee established by a candidate for
673 nomination or election to the office of Governor, Lieutenant Governor,
674 Attorney General, State Comptroller, Secretary of the State or State
675 Treasurer, (ii) a political committee authorized to make contributions
676 or expenditures to or for the benefit of such candidates, or (iii) a party
677 committee;

678 (B) No principal of a state contractor or prospective state contractor,
679 with regard to a state contract, bid solicitation or request for proposals
680 with or from the General Assembly or a holder of a valid
681 prequalification certificate, shall make a contribution to, or solicit
682 contributions on behalf of (i) an exploratory committee or candidate
683 committee established by a candidate for nomination or election to the

684 office of state senator or state representative, (ii) a political committee
685 authorized to make contributions or expenditures to or for the benefit
686 of such candidates, or (iii) a party committee;

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

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

718 contribution in violation of the provisions of subparagraph (A) or (B)
719 of this subdivision, whichever is applicable, and this subparagraph,
720 and (iii) acknowledge in writing that if any such contribution is made
721 or solicited, the prospective state contractor shall be disqualified from
722 being awarded the contract described in the bid solicitation or request
723 for proposals or being awarded any other state contract for one year
724 after the election for which such contribution is made or solicited.

725 Sec. 9. Section 49-41 of the general statutes is amended by adding
726 subsection (f) as follows (*Effective from passage*):

727 (NEW) (f) Whenever a surety bond is required in connection with a
728 contract for the construction, reconstruction, alteration, remodeling,
729 repair or demolition of any public building for work by the state or a
730 municipality, that is estimated to cost more than five hundred
731 thousand dollars and is paid for, in whole or in part, with state funds,
732 the surety contract between the contractor named as principal in the
733 bond and the surety that issues such bond shall contain the following
734 provision: "In the event that the surety assumes the contract or obtains
735 a bid or bids for completion of the contract, the surety shall ensure that
736 the contractor chosen to complete the contract is prequalified pursuant
737 to section 4a-100 of the Connecticut general statutes in the requisite
738 classification and has the aggregate work capacity rating and single
739 project limit necessary to complete the contract".

740 Sec. 10. Section 1-205 of the general statutes is amended by adding
741 subsections (k) and (l) as follows (*Effective from passage*):

742 (NEW) (k) The Freedom of Information Commission shall employ
743 an executive director and general counsel. Such executive director and
744 general counsel shall be appointed for an indefinite term pursuant to a
745 vote of the commission, without the approval of the Department of
746 Administrative Services. The salary of such executive director and
747 general counsel shall be determined by the commission within the
748 limits of any funds appropriated to the commission. Annually, the
749 chairperson of the commission shall conduct a written evaluation of

750 the performance of such executive director and general counsel. Such
751 executive director and general counsel may be removed by the
752 commission for reasonable cause in accordance with the provisions of
753 chapter 67. The executive director and general counsel shall be
754 responsible for the hiring of all employees of the commission, as
755 described in subsection (l) of this section.

756 (NEW) (l) The commission may employ executive, managerial and
757 confidential employees as may be necessary to carry out the provisions
758 of this chapter and within the limits of any funds appropriated to the
759 commission. Such employees shall be appointed by the executive
760 director and general counsel to positions established by the
761 commission, without the approval of the Department of
762 Administrative Services, and shall be exempt from the classified
763 service, provided the hiring of any such employee shall comply with
764 any provision of titles 5 and 31 of the general statutes that applies to
765 the hiring of executive, managerial and confidential employees by any
766 other state agency with the approval of the Department of
767 Administrative Services. The executive director and general counsel
768 shall, annually, conduct a written evaluation of the performance of any
769 such employee. Such employees may be removed by the executive
770 director and general counsel for reasonable cause in accordance with
771 the provisions of chapter 67.

772 Sec. 11. Subdivision (1) of subsection (b) of section 1-206 of the
773 general statutes is repealed and the following is substituted in lieu
774 thereof (*Effective from passage*):

775 (b) (1) Any person denied the right to inspect or copy records under
776 section 1-210 or wrongfully denied the right to attend any meeting of a
777 public agency or denied any other right conferred by the Freedom of
778 Information Act may appeal therefrom to the Freedom of Information
779 Commission, by filing a notice of appeal with said commission. A
780 notice of appeal shall be filed [within] not later than thirty days after
781 such denial, except in the case of an unnoticed or secret meeting, in
782 which case the appeal shall be filed [within] not later than thirty days

783 after the person filing the appeal receives notice in fact that such
784 meeting was held. For purposes of this subsection, such notice of
785 appeal shall be deemed to be filed on the date it is received by said
786 commission or on the date it is postmarked, if received more than
787 thirty days after the date of the denial from which such appeal is taken.
788 Upon receipt of such notice, the commission shall serve upon all
789 parties, by certified or registered mail, a copy of such notice together
790 with any other notice or order of such commission. In the case of the
791 denial of a request to inspect or copy records contained in a public
792 employee's personnel or medical file or similar file under subsection
793 (c) of section 1-214, the commission shall include with its notice or
794 order an order requiring the public agency to notify any employee
795 whose records are the subject of an appeal, and the employee's
796 collective bargaining representative, if any, of the commission's
797 proceedings and, if any such employee or collective bargaining
798 representative has filed an objection under said subsection (c), the
799 agency shall provide the required notice to such employee and
800 collective bargaining representative by certified mail, return receipt
801 requested or by hand delivery with a signed receipt. A public
802 employee whose personnel or medical file or similar file is the subject
803 of an appeal under this subsection may intervene as a party in the
804 proceedings on the matter before the commission. Said commission
805 shall, after due notice to the parties, hear and decide the appeal within
806 one year after the filing of the notice of appeal. The commission shall
807 adopt regulations in accordance with chapter 54, establishing criteria
808 for those appeals which shall be privileged in their assignment for
809 hearing. Any such appeal shall be heard [within] not later than thirty
810 days after receipt of a notice of appeal and decided [within] not later
811 than sixty days after the hearing. If a notice of appeal concerns an
812 announced agency decision to meet in executive session or an ongoing
813 agency practice of meeting in executive sessions, for a stated purpose,
814 the commission or a member or members of the commission
815 designated by its chairperson shall serve notice upon the parties in
816 accordance with this section and hold a preliminary hearing on the
817 appeal [within] not later than seventy-two hours after receipt of the

818 notice, provided such notice shall be given to the parties at least forty-
 819 eight hours prior to such hearing. During such preliminary hearing,
 820 the commission shall take evidence and receive testimony from the
 821 parties. If after the preliminary hearing the commission finds probable
 822 cause to believe that the agency decision or practice is in violation of
 823 sections 1-200 and 1-225, the agency shall not meet in executive session
 824 for such purpose until the commission decides the appeal. If probable
 825 cause is found by the commission, it shall conduct a final hearing on
 826 the appeal and render its decision [within] not later than five days [of]
 827 after the completion of the preliminary hearing. Such decision shall
 828 specify the commission's findings of fact and conclusions of law.

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>from passage</i>	4a-101(c)
Sec. 5	<i>October 1, 2007</i>	4a-101(c)
Sec. 6	<i>from passage</i>	4b-91
Sec. 7	<i>from passage</i>	4b-92
Sec. 8	<i>from passage</i>	9-612(g)(2)
Sec. 9	<i>from passage</i>	49-41
Sec. 10	<i>from passage</i>	1-205
Sec. 11	<i>from passage</i>	1-206(b)(1)

GAE *Joint Favorable Subst.*