



House of Representatives

General Assembly

File No. 480

February Session, 2008

Substitute House Bill No. 5899

House of Representatives, April 4, 2008

The Committee on Government Administration and Elections reported through REP. CARUSO of the 126th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ON-LINE PROCUREMENT BY STATE AGENCIES, MUNICIPALITIES AND REGIONAL AND LOCAL SCHOOL DISTRICTS.

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

1 Section 1. (NEW) (*Effective from passage*) Notwithstanding any
2 provision of the general statutes, not later than July 1, 2009, the
3 Commissioner of Administrative Services, in consultation with the
4 Commissioner of Education, shall adopt regulations, in accordance
5 with the provisions of chapter 54 of the general statutes, to enable state
6 agencies, municipalities and local and regional school districts to
7 participate in on-line auctions for the provision of services, goods and
8 supplies to such agencies, municipalities or districts. Such regulations
9 shall enable state agencies, municipalities and local and regional
10 school districts to receive secure bids from contractors for such
11 services, goods and supplies, through the Internet while assuring the
12 confidential security of such bids.

13 Sec. 2. Section 4a-57 of the general statutes is repealed and the
14 following is substituted in lieu thereof (*Effective from passage*):

15 (a) All purchases of, and contracts for, supplies, materials,
16 equipment and contractual services, except purchases and contracts
17 made pursuant to the provisions of subsection (b) of this section and
18 public utility services as provided in subsection (e) of this section shall
19 be based, when possible, on competitive bids or competitive
20 negotiation or any other process that will ensure a competitive contract
21 award, including, but not limited to, reverse auctions. The
22 commissioner shall solicit competitive bids or proposals by providing
23 notice of the planned purchase in a form and manner that the
24 commissioner determines will maximize public participation in the
25 competitive bidding or competitive negotiation process, including
26 participation by small contractors, as defined in section 4a-60g of the
27 2008 supplement to the general statutes, and promote competition. In
28 the case of an expenditure which is estimated to exceed fifty thousand
29 dollars, such notice shall be inserted, at least five calendar days before
30 the final date of submitting bids or proposals, in two or more
31 publications, at least one of which shall be a major daily newspaper
32 published in the state and shall be posted on the Internet. Each notice
33 of a planned purchase under this subsection shall indicate the type of
34 goods and services to be purchased and the estimated value of the
35 contract award. The notice shall also contain a notice of state contract
36 requirements concerning nondiscrimination and affirmative action
37 pursuant to section 4a-60 and, when applicable, requirements
38 concerning the awarding of contracts to small contractors, minority
39 business enterprises, individuals with a disability and nonprofit
40 corporations pursuant to section 4a-60g of the 2008 supplement to the
41 general statutes. Each bid and proposal shall be kept sealed or secured
42 until opened publicly at the time stated in the notice soliciting such bid
43 or proposal.

44 (b) The commissioner may, at his discretion, waive the requirement
45 of competitive bidding or competitive negotiation in the case of minor
46 nonrecurring and emergency purchases of ten thousand dollars or less

47 in amount.

48 (c) The commissioner shall adopt regulations, in accordance with
49 the provisions of chapter 54, establishing (1) standards and procedures
50 for using competitive negotiation for purchases and contracts,
51 including but not limited to, criteria which shall be considered in
52 making purchases by competitive negotiation and the weight which
53 shall be assigned to each such criterion, and (2) standards and
54 procedures under which additional purchases may be made under
55 existing contracts.

56 (d) The commissioner, in consultation with the Commissioner of
57 Environmental Protection and with the approval of the Secretary of the
58 Office of Policy and Management, may waive the requirement of
59 competitive bidding or competitive negotiation in the case of a
60 purchase of cars or light-duty trucks in order to comply with any
61 provisions of the general statutes regarding the purchase of alternative
62 fuel vehicles or any such requirement of federal law.

63 (e) (1) The purchase of or contract for the following public utility
64 services shall not be subject to competitive bidding or competitive
65 negotiation: (A) Electric distribution services; (B) water services; (C)
66 gas distribution services; (D) electric generation services until the date
67 such services are competitive pursuant to the schedule set forth in
68 section 16-244b, provided electric generation services shall be exempt
69 from competitive bidding and competitive negotiation after said date if
70 such services are provided by an electric municipal utility other than
71 by a participating electric municipal utility, as defined in section 16-1
72 of the 2008 supplement to the general statutes, in the service area of
73 said electric municipal utility; and (E) gas supply services until the
74 date such services are competitive pursuant to legislative act or order
75 of the Department of Public Utility Control, provided gas supply
76 services shall be exempt from competitive bidding and competitive
77 negotiation after said date if such services are provided by a gas
78 municipal utility in the service area of said gas municipal utility.

79 (2) Any purchase of or contract by the department for electric

80 generation services that are subject to competitive bidding and
81 competitive negotiations shall be conducted in cooperation with the
82 Office of Policy and Management pursuant to section 16a-14e.

83 (f) Nothing in this section shall be construed to apply to the award
84 of janitorial contracts pursuant to the provisions of subsections (b) to
85 (e), inclusive, of section 4a-82 of the 2008 supplement to the general
86 statutes.

87 Sec. 3. Section 4d-8 of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective from passage*):

89 (a) The provisions of title 4a shall apply to the purchasing, leasing
90 and contracting for information system and telecommunication system
91 facilities, equipment and services by the Chief Information Officer,
92 except that (1) the Chief Information Officer shall have the powers and
93 duties that are assigned by said title 4a to the Commissioner of
94 Administrative Services, [and] (2) the Chief Information Officer may
95 use competitive negotiation, as defined in section 4a-50, to purchase or
96 contract for such facilities, equipment and services after making a
97 written determination, including the reasons therefor, that such action
98 is in the best interest of the state, and (3) the Chief Information Officer
99 may use any other process that will ensure a competitive contract
100 award, including, but not limited to, reverse auctions. The Chief
101 Information Officer shall adopt regulations, in accordance with the
102 provisions of chapter 54, establishing objective standards for
103 determining when such competitive negotiation may be used instead
104 of competitive bidding, including whether the character of the
105 facilities, equipment or services is more important than their relative
106 cost.

107 (b) (1) As used in this subsection, "information technology personal
108 property" includes, but is not limited to, electronic data processing
109 equipment, other equipment necessary for the utilization of
110 information systems, telecommunication equipment or installations,
111 and other equipment necessary for the utilization of
112 telecommunication systems.

113 (2) Notwithstanding any provision of the general statutes, [to the
 114 contrary,] the Chief Information Officer may sell, lease or otherwise
 115 dispose of information technology personal property. The Chief
 116 Information Officer may execute personal service agreements or other
 117 contracts with outside vendors for such purposes. If any such
 118 information technology personal property was purchased or improved
 119 with the proceeds of tax-exempt obligations issued or to be issued by
 120 the state, the Chief Information Officer shall notify the State Treasurer
 121 and obtain the approval of the State Treasurer, before selling, leasing
 122 or disposing of the personal property or executing such an agreement
 123 or contract for such purpose. The State Treasurer may disapprove such
 124 sale, lease, disposition, agreement or contract only if it would affect the
 125 tax-exempt status of such obligations and could not be modified to
 126 maintain such tax-exempt status.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	4a-57
Sec. 3	<i>from passage</i>	4d-8

GAE Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Administrative Services	GF - Cost	Significant	Significant
Various State Agencies	GF - Savings	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Various Municipalities	Cost	See Below	See Below

Explanation

The bill requires the Department of Administrative Services (DAS) to adopt regulations enabling state agencies, municipalities, and regional and local school districts to seek and receive secure bids from contractors for goods, services, and supplies via the Internet.

This will result in a significant cost to DAS because the agency does not currently have the technical capability to receive secure bids through the internet for its own contract solicitations. DAS would need to hire information technology consultants, with a cost estimated at over \$750,000, to develop and implement an on-line bid program that could interface with municipalities and school districts. Once the program is operational, DAS would need to hire three additional staff (total annualized salary cost of \$185,000, plus fringe benefits) to manage and operate this new program.

Municipalities may incur costs if they choose to participate in this new DAS program. Municipalities may have to purchase new computer hardware and software to interface with the DAS system.

The bill also allows DAS and the Department of Information

Technology (DoIT) to also utilize reverse auctions when purchasing or contracting for supplies, materials, and equipment. Utilizing reverse auctions should result in a savings as it is expected to secure more competitive prices from vendors.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5899

AN ACT CONCERNING ON-LINE PROCUREMENT BY STATE AGENCIES, MUNICIPALITIES AND REGIONAL AND LOCAL SCHOOL DISTRICTS.

SUMMARY:

By July 1, 2009, this bill requires the administrative services commissioner to adopt regulations enabling state agencies, municipalities, and regional and local school districts to seek and receive secure bids from contractors for goods, services, and supplies via the Internet. The regulations, which the commissioner must adopt after consulting with the education commissioner, must specifically allow for participation in on-line auctions.

The bill expands the processes Executive Branch state agencies may use to purchase or contract for supplies, materials, equipment, and personal services to include reverse auctions.

EFFECTIVE DATE: Upon passage

PURCHASES BY EXECUTIVE BRANCH AGENCIES

By law, the administrative services commissioner is generally responsible for purchasing, leasing, or contracting for supplies, materials, equipment, and personal services that Executive Branch agencies require. She may delegate to the head of individual agencies the authority to make their own purchases or contracts. Additionally, the information technology chief information officer (CIO) is required to purchase, lease, or contract for information system and telecommunication system facilities.

The law requires the commissioner and the CIO to purchase or

contract for supplies, materials, equipment, and personal services, when possible, based on competitive bids or competitive negotiation.

The bill allows the commissioner and CIO to also use any process that ensures competitiveness when purchasing or contracting, including reverse auctions.

BACKGROUND

Definitions

“Competitive bidding” occurs when people or businesses competing for a contract to provide supplies, materials, equipment, or contractual services, submit prices that are not negotiated with the contracting authority.

“Competitive negotiation” is a procedure for contracting for supplies, materials, equipment, or contractual services in which (1) proposals are solicited from qualified suppliers by a request for proposals and (2) changes may be negotiated in submitted proposals and prices.

“Reverse auctions” are auctions in which the role of the buyer and seller are reversed (i.e., the bidder is the seller, not the buyer), with the primary objective to drive purchase prices downward.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 12 Nay 0 (03/17/2008)