



General Assembly

February Session, 2008

**Raised Bill No. 5892**

LCO No. 3083

\*03083 \_\_\_\_\_ GAE\*

Referred to Committee on Government Administration and Elections

Introduced by:  
(GAE)

**AN ACT CONCERNING THE QUALITY OF DESIGN AND CONSTRUCTION DOCUMENTS AND THE PREQUALIFICATION OF CERTAIN SUBCONTRACTORS.**

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

1 Section 1. (NEW) (*Effective October 1, 2008*) Notwithstanding any  
2 provision of the general statutes, any design for the construction,  
3 reconstruction, alteration, remodeling, repair or demolition of any  
4 public building for work by the state that is estimated to cost five  
5 hundred thousand dollars or more, including but not limited to, any  
6 project, as defined in subdivision (16) of section 10a-109c of the 2008  
7 supplement to the general statutes and all orders and contracts for  
8 school building construction that receive state assistance pursuant to  
9 title 10 of the general statutes, shall be reviewed as to such design's  
10 final drawings, plans and specifications by an independent, third-party  
11 professional who is experienced in such design. Such review shall take  
12 place prior to the invitation of bids for any such project by the  
13 applicable awarding authority. Any cost associated with such review  
14 shall be paid by the awarding authority. The independent, third-party  
15 professional who undertakes such review shall issue a report to the

16 awarding authority indicating any coordination errors, omissions,  
17 inconsistencies or discrepancies in the design and any recommended  
18 revisions to correct such errors, omissions, inconsistencies or  
19 discrepancies. Any such drawings, plans or specifications shall be  
20 revised in accordance with the recommendations contained in any  
21 such report.

22 Sec. 2. Section 4b-91 of the 2008 supplement to the general statutes is  
23 repealed and the following is substituted in lieu thereof (*Effective*  
24 *October 1, 2008*):

25 (a) Every contract for the construction, reconstruction, alteration,  
26 remodeling, repair or demolition of any public building or any other  
27 public work by the state except a public highway or bridge project or  
28 any other construction project administered by the Department of  
29 Transportation, which is estimated to cost more than five hundred  
30 thousand dollars, except a contract awarded by the Commissioner of  
31 Public Works for (1) a community court project, as defined in  
32 subsection (j) of section 4b-55 of the 2008 supplement to the general  
33 statutes, (2) the downtown Hartford higher education center project, as  
34 defined in subsection (l) of section 4b-55 of the 2008 supplement to the  
35 general statutes, (3) a correctional facility project, as defined in  
36 subsection (m) of section 4b-55 of the 2008 supplement to the general  
37 statutes, (4) a juvenile detention center project, as defined in subsection  
38 (n) of section 4b-55 of the 2008 supplement to the general statutes, or  
39 (5) a student residential facility for the Connecticut State University  
40 system that is a priority higher education facility project, as defined in  
41 subsection (f) of section 4b-55 of the 2008 supplement to the general  
42 statutes, shall be awarded to the lowest responsible and qualified  
43 general bidder who is prequalified pursuant to section 4a-100 of the  
44 2008 supplement to the general statutes on the basis of competitive  
45 bids in accordance with the procedures set forth in this chapter, after  
46 the Commissioner of Public Works or, in the case of a contract for the  
47 construction of or work on a building under the supervision and  
48 control of the Joint Committee on Legislative Management of the

49 General Assembly, the joint committee or, in the case of a contract for  
50 the construction of or work on a building under the supervision and  
51 control of one of the constituent units of the state system of higher  
52 education, the constituent unit, has invited such bids by  
53 advertisements inserted at least once in one or more newspapers  
54 having a circulation in each county in the state. The Commissioner of  
55 Public Works, the joint committee or the constituent unit, as the case  
56 may be, shall indicate the prequalification classification required for  
57 the contract in such advertisement. As used in this section,  
58 "prequalification classification" means the prequalification  
59 classifications established by the Commissioner of Administrative  
60 Services pursuant to section 4a-100 of the 2008 supplement to the  
61 general statutes.

62 (b) The Commissioner of Public Works, the joint committee or the  
63 constituent unit, as the case may be, shall determine the manner of  
64 submission and the conditions and requirements of such bids, and the  
65 time within which the bids shall be submitted, consistent with the  
66 provisions of sections 4b-91 to 4b-96, inclusive, of the 2008 supplement  
67 to the general statutes. Such award shall be made not later than ninety  
68 days after the opening of such bids. If the general bidder selected as  
69 the general contractor fails to perform the general contractor's  
70 agreement to execute a contract in accordance with the terms of the  
71 general contractor's general bid and furnish a performance bond and  
72 also a labor and materials or payment bond to the amount specified in  
73 the general bid form, an award shall be made to the next lowest  
74 responsible and qualified general bidder. No employee of the  
75 Department of Public Works, the joint committee or a constituent unit  
76 with decision-making authority concerning the award of a contract  
77 and no public official, as defined in section 1-79 of the 2008  
78 supplement to the general statutes, may communicate with any bidder  
79 prior to the award of the contract if the communication results in the  
80 bidder receiving information about the contract that is not available to  
81 other bidders, except that if the lowest responsible and qualified  
82 bidder's price submitted is in excess of funds available to make an

83 award, the Commissioner of Public Works, the Joint Committee on  
84 Legislative Management or the constituent unit, as the case may be,  
85 may negotiate with such bidder and award the contract on the basis of  
86 the funds available, without change in the contract specifications,  
87 plans and other requirements. If the award of a contract on said basis  
88 is refused by such bidder, the Commissioner of Public Works, the Joint  
89 Committee on Legislative Management or the constituent unit, as the  
90 case may be, may negotiate with other contractors who submitted bids  
91 in ascending order of bid prices without change in the contract,  
92 specifications, plans and other requirements. In the event of  
93 negotiation with general bidders as provided in this section, the  
94 general bidder involved may negotiate with subcontractors on the  
95 same basis, provided such general bidder shall negotiate only with  
96 subcontractors named on such general bidder's general bid form.

97 (c) No person may bid on a contract or perform work pursuant to a  
98 contract for the construction, reconstruction, alteration, remodeling,  
99 repair or demolition of any public building for work by the state or a  
100 municipality, which is estimated to cost more than five hundred  
101 thousand dollars and is paid for, in whole or in part, with state funds,  
102 unless the person is prequalified in accordance with section 4a-100 of  
103 the 2008 supplement to the general statutes.

104 (d) Each bid submitted for a contract described in subsection (c) of  
105 this section shall include a copy of a prequalification certificate issued  
106 by the Commissioner of Administrative Services. The bid shall also be  
107 accompanied by an update bid statement in such form as the  
108 Commissioner of Administrative Services prescribes. The form for  
109 such update bid statement shall provide space for information  
110 regarding all projects completed by the bidder since the date the  
111 bidder's prequalification certificate was issued or renewed, all projects  
112 the bidder currently has under contract, including the percentage of  
113 work on such projects not completed, the names and qualifications of  
114 the personnel who will have supervisory responsibility for the  
115 performance of the contract, any significant changes in the bidder's

116 financial position or corporate structure since the date the certificate  
117 was issued or renewed, any change in the contractor's qualification  
118 status as determined by the provisions of subdivision (6) of subsection  
119 (c) of section 4a-100 of the 2008 supplement to the general statutes and  
120 such other relevant information as the Commissioner of  
121 Administrative Services prescribes. Any bid submitted without a copy  
122 of the prequalification certificate and an update bid statement shall be  
123 invalid. Any public agency that accepts a bid submitted without a  
124 copy of such prequalification certificate and an update bid statement,  
125 as required by this section, may become ineligible for the receipt of  
126 funds related to such bid.

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

135 (f) Any person who receives information from a state employee or  
136 public official that is not available to the general public concerning any  
137 construction, reconstruction, alteration, remodeling, repair or  
138 demolition project on a public building prior to the date that an  
139 advertisement for bids on the project is published shall be disqualified  
140 from bidding on the project.

141 (g) Notwithstanding the provisions of this chapter regarding  
142 competitive bidding procedures, the commissioner may select and  
143 interview at least three responsible and qualified general contractors  
144 who are prequalified pursuant to section 4a-100 of the 2008  
145 supplement to the general statutes and submit the three selected  
146 contractors to the construction services award panels process  
147 described in section 4b-100a of the 2008 supplement to the general

148 statutes and any regulation adopted by the commissioner. The  
149 commissioner may negotiate with the successful bidder a contract  
150 which is both fair and reasonable to the state for a community court  
151 project, as defined in subsection (j) of section 4b-55 of the 2008  
152 supplement to the general statutes, the downtown Hartford higher  
153 education center project, as defined in subsection (l) of section 4b-55 of  
154 the 2008 supplement to the general statutes, a correctional facility  
155 project, as defined in subsection (m) of section 4b-55 of the 2008  
156 supplement to the general statutes, a juvenile detention center project,  
157 as defined in subsection (n) of section 4b-55 of the 2008 supplement to  
158 the general statutes, or a student residential facility for the Connecticut  
159 State University system that is a priority higher education facility  
160 project, as defined in subsection (f) of section 4b-55 of the 2008  
161 supplement to the general statutes. The Commissioner of Public  
162 Works, prior to entering any such contract or performing any work on  
163 such project, shall submit such contract to the State Properties Review  
164 Board for review and approval or disapproval by the board, pursuant  
165 to subsection (i) of this section. Any general contractor awarded a  
166 contract pursuant to this subsection shall be subject to the same  
167 requirements concerning the furnishing of bonds as a contractor  
168 awarded a contract pursuant to subsection (b) of this section.

169 (h) Any agency that seeks to have a project awarded without being  
170 subject to competitive bidding procedures shall certify to the joint  
171 committee of the General Assembly having cognizance of matters  
172 relating to government administration and elections that the project is  
173 of such an emergency nature that an exception to the competitive  
174 bidding procedures of this section is required. Such certification shall  
175 include input from all affected agencies, detail the need for the  
176 exception and include any relevant documentation.

177 (i) In the event that the General Assembly approves legislation  
178 authorizing an exception to the competitive bidding process for a  
179 project, the State Properties Review Board shall complete a review of  
180 the contract for such project and approve or disapprove such contract

181 no later than thirty days after the Commissioner of Public Works  
182 submits such contract to the board. Such review shall be conducted in  
183 accordance with the provisions of section 4b-3 of the 2008 supplement  
184 to the general statutes. In the event that such review does not occur  
185 within the thirty-day period prescribed by this subsection, such  
186 contract shall be deemed to be approved.

187 (j) On and after October 1, 2007, no person whose subcontract  
188 exceeds five hundred thousand dollars in value may perform work as  
189 a subcontractor on a project for the construction, reconstruction,  
190 alteration, remodeling, repair or demolition of any public building for  
191 work by the state or a municipality, which project is estimated to cost  
192 more than five hundred thousand dollars and is paid for, in whole or  
193 in part, with state funds, unless the person is prequalified in  
194 accordance with section 4a-100 of the 2008 supplement to the general  
195 statutes. The provisions of this subsection shall not apply to a project  
196 described in subdivision (2) of subsection (a) of this section.

197 (k) On and after October 1, 2009, no person may perform work on a  
198 subcontract, as described in subsection (j) of this section, unless such  
199 person is prequalified in accordance with section 4a-100 of the 2008  
200 supplement to the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	4b-91

**Statement of Purpose:**

To require designs for certain state construction projects to be reviewed by independent, third-party professionals and to require persons who perform certain work on state construction projects to be prequalified.

*[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.]*

