

Legislative Regulation Review Committee

2008-045a

Department of Administrative Services

SET-ASIDE PROGRAM

IMPORTANT: Read instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

**STATE OF CONNECTICUT
REGULATION
OF
Department of Administrative Services**

**CONCERNING
The Set-Aside Program**

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 4a-60h-1 to 4a-60h-6, inclusive, as follows:

(NEW) Section 4a-60h-1. Definitions

As used in sections 4a-60h-1 to 4a-60h-6, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Applicant" means any person or entity applying for certification as a "small business enterprise" or a "minority business enterprise" pursuant to section 4a-60g of the Connecticut General Statutes;
- (2) "Commissioner" means the Commissioner of Administrative Services or the Commissioner's designee;
- (3) "Individual with a disability" means "individual with a disability," as defined in subdivision (7) of subsection (a) of section 4a-60g of the Connecticut General Statutes;
- (4) "Minority business enterprise" means "minority business enterprise," as defined in subdivision (3) of subsection (a) of section 4a-60g of the Connecticut General Statutes; and
- (5) "Small business enterprise" means "small contractor," as defined in subdivision (1) of subsection (a) of section 4a-60g of the Connecticut General Statutes.

(NEW) Section 4a-60h-2. Application of Program to Individuals with a Disability

An applicant seeking certification as a minority business enterprise pursuant to subsection (k) of section 4a-60g of the Connecticut General Statutes based on a disability shall provide documentation substantiating that the applicant's owner is an individual who (1) has a physical or mental impairment that substantially limits one or more of the individual's major life activities or (2) has a record of such impairment. The documentation shall be from a licensed physician.

(NEW) Section 4a-60h-3. Letters of Credit

- (a) A letter of credit submitted pursuant to subsection (i) of section 4a-60g of the Connecticut General Statutes shall be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution, as defined in subsection (a) of section 38a-87 of the Connecticut General Statutes.
- (b) The letter of credit shall comply with the requirements established in subsections (a) through (h), inclusive, of section 38a-88-8 of the Regulations of Connecticut State Agencies.

(NEW) Section 4a-60h-4. Random Site Visits

- (a) At the Commissioner's discretion, he or she may conduct on-site visits during the initial application or re-certification process or at any time while the certification is valid.
- (b) An automated random selection process will determine which applicants, minority business enterprises and small business enterprises shall be subject to an on-site visit unless an on-site visit is otherwise required by state or federal statute or regulation.
- (c) The Commissioner shall conduct the visit during regular business hours at the principal place of business of the applicant, minority business enterprise or small business enterprise or at the project site or both. The Commissioner shall not be required to provide advance notice of the on-site visit.

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(d) The Commissioner may examine all books, records and files that the Commissioner deems relevant in determining eligibility for certification pursuant to section 4a-60g of the Connecticut General Statutes.

(e) The Commissioner may question any employee of the applicant, minority business enterprise or small business enterprise when, in the discretion of the Commissioner, such questioning will assist the Commissioner in determining eligibility for certification.

(NEW) Section 4a-60h-5. Time Limits for Approval or Disapproval of Applications.

The Commissioner shall notify the applicant if he or she has approved or disapproved its application for certification not later than 30 days after the Commissioner begins his or her review of the application.

(NEW) Section 4a-60h-6. Access to Competitive Contracts Outside of the Set-Aside Program.

The Commissioner shall notify all applicants, small business enterprises and minority business enterprises of the existence of the State Contracting Portal and shall provide instructions about registering to receive notification of all contracting opportunities posted on the State Contracting Portal.

Statement of Purpose: The purpose of these regulations is to comply with section 4a-60h of the Connecticut General Statutes, which requires the Department of Administrative Services ("DAS") to adopt regulations in connection with the administration of the set-aside program. In summary, these regulations create (1) provisions concerning the application of the program to individuals with a disability; (2) guidelines for a legally acceptable format for and content of letters of credit; (3) procedures for random site visits; (4) time limits for approval or disapproval of applications; and (5) a process to ensure that certified businesses have access to competitive contracts outside of the set-aside program. The legal effects of these regulations are to clarify some of the procedures relating to the set-aside program and to ensure that DAS's requirements regarding letters of credit are consistent with existing regulations.

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CERTIFICATION

Be it known that the foregoing: (check one) Regulations Emergency Regulations

Are: Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

Section 4a-60h of the General Statutes.

Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts
(enter year)

Public Act Number _____ of the _____ Public Acts.
(enter year)

(If applicable) After publication in the *Connecticut Law Journal* on March 25, 2008 of the notice of proposal to: (enter publication)

Adopt Amend Repeal such regulations

(If applicable) And the holding of an advertised public hearing on _____ (enter date)

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

EFFECTIVE: (check one, and complete as applicable)

When filed with the Secretary of the State (OR)

The _____ day of _____ 20_____.

In Witness Whereof:	DATE 11/6/08	SIGNED (Head of Board, Agency or Commission) <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
Approved by the Attorney General as to legal sufficiency in accordance with Section 4-169, as amended, of C.G.S.		SIGNED <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL

For Regulation Review Committee Use

- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice

By the Legislative Regulation Review Committee in accordance with Section 4-170, as amended, of the General Statutes.	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed, one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED (Secretary of the State)	BY
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INSRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (Section 4-169 of the General Statutes.)
2. Original and eighteen copies of all regulations for adoption, amendment or repeal must be presented to the standing Legislative Regulation Review Committee for its action. (Section 4-170 of the General Statutes.)
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. (Section 4-172 of the General Statutes.)
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. (Section 4-170 of the General Statutes.)

Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>