



General Assembly

January Session, 2009

Raised Bill No. 6297

LCO No. 2573

02573 _____ GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING CERTAIN AUTHORITIES AND DUTIES OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES.

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

1 Section 1. Section 4a-16 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 When any person supported or cared for by the state under a
4 program of public assistance or in an institution maintained by the
5 Department of Public Health, Department of Developmental Services
6 or Department of Mental Health and Addiction Services, or when an
7 inmate of the Department of Correction, or when any child committed
8 to the Commissioner of Social Services or Commissioner of Children
9 and Families dies leaving only personal estate, including personal
10 assets owing and due the estate after death, not exceeding [twenty]
11 forty thousand dollars in value, the Commissioner of Administrative
12 Services or the commissioner's authorized representative shall, upon
13 filing with the probate court having jurisdiction of such estate a
14 certificate that the total estate is under [twenty] forty thousand dollars
15 and the claim of the state, together with the expense of last illness not

16 exceeding three hundred seventy-five dollars and funeral and burial
17 expenses in accordance with section 17b-84, equals or exceeds the
18 amount of such estate, be issued a certificate by said court that the
19 commissioner is the legal representative of such estate only for the
20 following purpose. The commissioner shall have authority to claim
21 such estate, the commissioner's receipt for the same to be a valid
22 discharge of the liability of any person turning over the same, and to
23 settle the same by payment of the expense of last illness not exceeding
24 three hundred seventy-five dollars, expense of funeral and burial in
25 accordance with section 17b-84 and the remainder as partial or full
26 reimbursement of the claim of the state for care or assistance rendered
27 to the decedent. The commissioner shall file with said probate court a
28 statement of the settlement of such estate as herein provided.

29 Sec. 2. Subsection (a) of section 4a-57 of the general statutes is
30 repealed and the following is substituted in lieu thereof (*Effective from*
31 *passage*):

32 (a) All purchases of, and contracts for, supplies, materials,
33 equipment and contractual services, except purchases and contracts
34 made pursuant to the provisions of subsection (b) of this section and
35 public utility services as provided in subsection (e) of this section shall
36 be based, when possible, on competitive bids or competitive
37 negotiation. The commissioner shall solicit competitive bids or
38 proposals by providing notice of the planned purchase in a form and
39 manner that the commissioner determines will maximize public
40 participation in the competitive bidding or competitive negotiation
41 process, including participation by small contractors, as defined in
42 section 4a-60g, and promote competition. In the case of an expenditure
43 [which] that is estimated to exceed fifty thousand dollars, such notice
44 shall be [inserted, at least] posted, not less than five calendar days
45 before the final date of submitting bids or proposals, [in two or more
46 publications, at least one of which shall be a major daily newspaper
47 published in the state and shall be posted on the Internet] on the state
48 contracting portal. Each notice of a planned purchase under this

49 subsection shall indicate the type of goods and services to be
50 purchased and the estimated value of the contract award. The notice
51 shall also contain a notice of state contract requirements concerning
52 nondiscrimination and affirmative action pursuant to section 4a-60
53 and, when applicable, requirements concerning the awarding of
54 contracts to small contractors, minority business enterprises,
55 individuals with a disability and nonprofit corporations pursuant to
56 section 4a-60g. Each bid and proposal shall be kept sealed or secured
57 until opened publicly at the time stated in the notice soliciting such bid
58 or proposal.

59 Sec. 3. Subsections (j) to (o), inclusive, of section 4a-100 of the
60 general statutes are repealed and the following is substituted in lieu
61 thereof (*Effective from passage*):

62 (j) The commissioner may revoke a contractor's or substantial
63 subcontractor's prequalification or reduce the contractor's or
64 substantial subcontractor's prequalification classification or aggregate
65 work capacity ratings, after an opportunity for a hearing, if the
66 commissioner receives additional information that supports such
67 revocation or reduction. During the course of such hearing process, the
68 commissioner may suspend a contractor's or substantial
69 subcontractor's prequalification certificate if the commissioner
70 determines that there is probable cause to believe that such contractor
71 or substantial subcontractor engaged in conduct that significantly
72 undermines the skill, ability or integrity of such contractor or
73 substantial subcontractor. Any such suspension shall not exceed a
74 period of three months and shall be accompanied by a written decision
75 of the commissioner that sets forth the reasons for and duration of
76 such suspension. The commissioner shall send notification of any such
77 suspension to such contractor or substantial subcontractor by certified
78 mail, return receipt requested. Such contractor or substantial
79 subcontractor may file a response, in writing, not later than thirty days
80 after receipt of such notice. The commissioner shall review any such
81 response submitted by a contractor or substantial subcontractor within

82 such thirty-day period.

83 (k) (1) Any substantial evidence of fraud in obtaining or
84 maintaining prequalification or any materially false statement in the
85 application, update statement or update bid statement may, in the
86 discretion of the awarding authority, result in termination of any
87 contract awarded the [applicant] contractor or substantial
88 subcontractor by the awarding authority. The awarding authority shall
89 provide written notice to the commissioner of such false statement not
90 later than thirty days after discovering such false statement. The
91 commissioner shall provide written notice of such false statement to
92 the Commissioner of Public Works, the Commissioner of Consumer
93 Protection and the President of The University of Connecticut not later
94 than thirty days after discovering such false statement or receiving
95 such notice.

96 (2) The commissioner shall deny or revoke the prequalification of
97 any [person] contractor or substantial subcontractor if the
98 commissioner finds that the [person] contractor or substantial
99 subcontractor, or a principal or key personnel of such contractor or
100 substantial contractor, (A) within the past five years has included any
101 materially false statement in [such] a prequalification application,
102 update statement or update bid statement, (B) within the past five
103 years has been convicted of a crime, has entered a plea of guilty or nolo
104 contendere for, or has admitted to a crime related to the procurement
105 or performance of any public or private construction contract, or [] (C)
106 within the past five years, has otherwise engaged in fraud in obtaining
107 or maintaining prequalification. Any revocation made pursuant to this
108 subsection shall be made only after an opportunity for a hearing. Any
109 [person] contractor or substantial subcontractor whose prequalification
110 has been revoked pursuant to this subsection shall be disqualified for a
111 period of two years after which the [person] contractor or substantial
112 subcontractor may reapply for prequalification, except that a [person]
113 contractor or substantial subcontractor whose prequalification has
114 been revoked on the basis of conviction of a crime or engaging in fraud

115 shall be disqualified for a period of five years after which the [person]
116 contractor or substantial subcontractor may reapply for
117 prequalification. The commissioner shall not prequalify a [person]
118 contractor or substantial subcontractor whose prequalification has
119 been revoked pursuant to this subdivision until the expiration of said
120 two-year, five-year, or other applicable disqualification period and the
121 commissioner is satisfied that the matters that gave rise to the
122 revocation have been eliminated or remedied.

123 (l) The commissioner shall provide written notice of any revocation,
124 disqualification, reduction in classification or capacity rating or
125 reinstated prequalification to the Commissioner of Public Works, the
126 Commissioner of Consumer Protection and the President of The
127 University of Connecticut not later than thirty days after any final
128 determination.

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

131 (n) The commissioner shall establish an update statement for use by
132 [bidders] contractors and substantial subcontractors for purposes of
133 renewing or upgrading a prequalification certificate and an update bid
134 statement for purposes of submitting a bid pursuant to section 4b-91.

135 (o) Any [applicant] contractor or substantial subcontractor
136 aggrieved by the commissioner's final determination concerning a
137 preliminary determination, a denial of certification, a reduction in
138 prequalification classification or aggregate work capacity rating or a
139 revocation or nonrenewal of certification may appeal to the Superior
140 Court in accordance with section 4-183.

141 Sec. 4. Subsection (g) of section 4a-101 of the general statutes is
142 repealed and the following is substituted in lieu thereof (*Effective from*
143 *passage*):

144 (g) Notwithstanding the provisions of [subsection (a) of] this

145 section, any [political subdivision] public agency of the state, when
146 evaluating the performance of a contractor's subcontractors or
147 substantial subcontractors, to the extent known, may rely on an
148 evaluation of such subcontractors or substantial subcontractors that is
149 conducted by the contractor. No contractor shall be held liable to any
150 subcontractor or substantial contractor for any loss or injury sustained
151 by such subcontractor or substantial contractor as the result of such
152 evaluation provided to a public agency, unless such contractor is
153 found by a court of competent jurisdiction to have acted in a wilful,
154 wanton or reckless manner.

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

157 (a) Every contract for the construction, reconstruction, alteration,
158 remodeling, repair or demolition of any public building or any other
159 public work by the state except a public highway or bridge project or
160 any other construction project administered by the Department of
161 Transportation, which is estimated to cost more than five hundred
162 thousand dollars, except a contract awarded by the Commissioner of
163 Public Works for (1) a community court project, as defined in
164 subsection (j) of section 4b-55, (2) the downtown Hartford higher
165 education center project, as defined in subsection (l) of section 4b-55,
166 (3) a correctional facility project, as defined in subsection (m) of section
167 4b-55, (4) a juvenile detention center project, as defined in subsection
168 (n) of section 4b-55, or (5) a student residential facility for the
169 Connecticut State University System that is a priority higher education
170 facility project, as defined in subsection (f) of section 4b-55, shall be
171 awarded to the lowest responsible and qualified general bidder who is
172 prequalified pursuant to section 4a-100, as amended by this act, on the
173 basis of competitive bids in accordance with the procedures set forth in
174 this chapter, after the Commissioner of Public Works or, in the case of
175 a contract for the construction of or work on a building or other public
176 work under the supervision and control of the Joint Committee on
177 Legislative Management of the General Assembly, the joint committee

178 or, in the case of a contract for the construction of or work on a
179 building or other public work under the supervision and control of one
180 of the constituent units of the state system of higher education, the
181 constituent unit, has invited such bids by [advertisements inserted at
182 least once in one or more newspapers having a circulation in each
183 county in the state] notice posted on the state contracting portal. Every
184 contract for the construction, reconstruction, alteration, remodeling,
185 repair or demolition of any public building or any other public work
186 by a municipality that is paid for, in whole or in part, with state funds
187 and that is estimated to cost more than five hundred thousand dollars,
188 except a public highway or bridge project or any other construction
189 project administered by the Department of Transportation, shall be
190 awarded to a bidder that is prequalified pursuant to section 4a-100, as
191 amended by this act, after the municipality has invited such bids by
192 notice posted on the state contracting portal. The Commissioner of
193 Public Works, the joint committee, the municipality or the constituent
194 unit, as the case may be, shall indicate the prequalification
195 classification required for the contract in such [advertisement] notice.
196 As used in this section, "prequalification classification" means the
197 prequalification classifications established by the Commissioner of
198 Administrative Services pursuant to section 4a-100, as amended by this
199 act.

200 (b) The Commissioner of Public Works, the joint committee or the
201 constituent unit, as the case may be, shall determine the manner of
202 submission and the conditions and requirements of such bids, and the
203 time within which the bids shall be submitted, consistent with the
204 provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be
205 made not later than ninety days after the opening of such bids. If the
206 general bidder selected as the general contractor fails to perform the
207 general contractor's agreement to execute a contract in accordance with
208 the terms of the general contractor's general bid and furnish a
209 performance bond and also a labor and materials or payment bond to
210 the amount specified in the general bid form, an award shall be made
211 to the next lowest responsible and qualified general bidder. No

212 employee of the Department of Public Works, the joint committee or a
213 constituent unit with decision-making authority concerning the award
214 of a contract and no public official, as defined in section 1-79, may
215 communicate with any bidder prior to the award of the contract if the
216 communication results in the bidder receiving information about the
217 contract that is not available to other bidders, except that if the lowest
218 responsible and qualified bidder's price submitted is in excess of funds
219 available to make an award, the Commissioner of Public Works, the
220 Joint Committee on Legislative Management or the constituent unit, as
221 the case may be, may negotiate with such bidder and award the
222 contract on the basis of the funds available, without change in the
223 contract specifications, plans and other requirements. If the award of a
224 contract on said basis is refused by such bidder, the Commissioner of
225 Public Works, the Joint Committee on Legislative Management or the
226 constituent unit, as the case may be, may negotiate with other
227 contractors who submitted bids in ascending order of bid prices
228 without change in the contract, specifications, plans and other
229 requirements. In the event of negotiation with general bidders as
230 provided in this section, the general bidder involved may negotiate
231 with subcontractors on the same basis, provided such general bidder
232 shall negotiate only with subcontractors named on such general
233 bidder's general bid form.

234 (c) No person may bid on a contract or perform work pursuant to a
235 contract [for the construction, reconstruction, alteration, remodeling,
236 repair or demolition of any public building for work by the state or a
237 municipality, which is estimated to cost more than five hundred
238 thousand dollars and is paid for, in whole or in part, with state funds,]
239 described in subsection (a) unless the person is prequalified in
240 accordance with section 4a-100, as amended by this act.

241 (d) Each bid submitted for a contract described in subsection (c) of
242 this section shall include [a copy of a prequalification certificate issued
243 by the Commissioner of Administrative Services. The bid shall also be
244 accompanied by] an update bid statement in such form as the

245 Commissioner of Administrative Services prescribes and, if required
246 by the public agency, a copy of the prequalification certificate issued
247 by the Commissioner of Administrative Services. The form for such
248 update bid statement shall provide space for information regarding all
249 projects completed by the bidder since the date the bidder's
250 prequalification certificate was issued or renewed, all projects the
251 bidder currently has under contract, including the percentage of work
252 on such projects not completed, the names and qualifications of the
253 personnel who will have supervisory responsibility for the
254 performance of the contract, any significant changes in the bidder's
255 financial position or corporate structure since the date the certificate
256 was issued or renewed, any change in the contractor's qualification
257 status as determined by the provisions of subdivision (6) of subsection
258 (c) of section 4a-100, as amended by this act, and such other relevant
259 information as the Commissioner of Administrative Services
260 prescribes. Any bid submitted without a copy of the prequalification
261 certificate, if required by the public agency, and an update bid
262 statement [shall] may be deemed invalid. Any public agency that
263 accepts a bid submitted without a copy of such prequalification
264 certificate, if required by such public agency, and an update bid
265 statement [, as required by this section,] may become ineligible for the
266 receipt of funds related to such bid. As used in this section, "public
267 agency" means a public agency, as defined in section 1-200.

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

276 (f) Any person who receives information from a state employee or
277 public official that is not available to the general public concerning any

278 construction, reconstruction, alteration, remodeling, repair or
279 demolition project on a public building or any other public work prior
280 to the date that [an advertisement] a notice for bids on the project is
281 [published] posted shall be disqualified from bidding on the project.

282 (g) Notwithstanding the provisions of this chapter regarding
283 competitive bidding procedures, the commissioner may select and
284 interview at least three responsible and qualified general contractors
285 who are prequalified pursuant to section 4a-100, as amended by this
286 act, and submit the three selected contractors to the construction
287 services award panels process described in section 4b-100a and any
288 regulation adopted by the commissioner. The commissioner may
289 negotiate with the successful bidder a contract which is both fair and
290 reasonable to the state for a community court project, as defined in
291 subsection (j) of section 4b-55, the downtown Hartford higher
292 education center project, as defined in subsection (l) of section 4b-55, a
293 correctional facility project, as defined in subsection (m) of section 4b-
294 55, a juvenile detention center project, as defined in subsection (n) of
295 section 4b-55, or a student residential facility for the Connecticut State
296 University System that is a priority higher education facility project, as
297 defined in subsection (f) of section 4b-55. The Commissioner of Public
298 Works, prior to entering any such contract or performing any work on
299 such project, shall submit such contract to the State Properties Review
300 Board for review and approval or disapproval by the board, pursuant
301 to subsection (i) of this section. Any general contractor awarded a
302 contract pursuant to this subsection shall be subject to the same
303 requirements concerning the furnishing of bonds as a contractor
304 awarded a contract pursuant to subsection (b) of this section.

305 (h) Any agency that seeks to have a project awarded without being
306 subject to competitive bidding procedures shall certify to the joint
307 committee of the General Assembly having cognizance of matters
308 relating to government administration and elections that the project is
309 of such an emergency nature that an exception to the competitive
310 bidding procedures of this section is required. Such certification shall

311 include input from all affected agencies, detail the need for the
 312 exception and include any relevant documentation.

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

322 (j) On and after October 1, 2007, no person whose subcontract
 323 exceeds five hundred thousand dollars in value may perform work as
 324 a subcontractor on a project for the construction, reconstruction,
 325 alteration, remodeling, repair or demolition of any public building [for
 326 work] or any other public work by the state or a municipality, except a
 327 public highway or bridge project or any other construction project
 328 administered by the Department of Transportation, which project is
 329 estimated to cost more than five hundred thousand dollars and is paid
 330 for, in whole or in part, with state funds, unless the person is
 331 prequalified in accordance with section 4a-100, as amended by this act.
 332 The provisions of this subsection shall not apply to a project described
 333 in subdivision (2) of subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4a-16
Sec. 2	<i>from passage</i>	4a-57(a)
Sec. 3	<i>from passage</i>	4a-100(j) to (o)
Sec. 4	<i>from passage</i>	4a-101(g)
Sec. 5	<i>from passage</i>	4b-91

Statement of Purpose:

To make certain conforming and technical changes concerning the prequalification program administered by the Department of Administrative Services, to update the small estate administration statute under the department's authority, and to make certain bid notification changes.

[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.]