



General Assembly

Substitute Bill No. 6297

January Session, 2009

* HB06297APP 042809 *

AN ACT CONCERNING CERTAIN AUTHORITY 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 Section 4a-16 of the general statutes is repealed and the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 thousand dollars in value] the aggregate value, as described in section
12 45a-273, the Commissioner of Administrative Services or the
13 commissioner's authorized representative shall, upon filing with the
14 probate court having jurisdiction of such estate a certificate that the
15 total estate is under [twenty thousand dollars] the aggregate value, as
16 described in section 45a-273, and the claim of the state, together with
17 the expense of last illness not exceeding three hundred seventy-five
18 dollars and funeral and burial expenses in accordance with section
19 17b-84, equals or exceeds the amount of such estate, be issued a

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

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32 repealed and the following is substituted in lieu thereof (*Effective from*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

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

54 nondiscrimination and affirmative action pursuant to section 4a-60
55 and, when applicable, requirements concerning the awarding of
56 contracts to small contractors, minority business enterprises,
57 individuals with a disability and nonprofit corporations pursuant to
58 section 4a-60g. Each bid and proposal shall be kept sealed or secured
59 until opened publicly at the time stated in the notice soliciting such bid
60 or proposal.

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

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

85 (k) (1) Any substantial evidence of fraud in obtaining or
86 maintaining prequalification or any materially false statement in the

87 application, update statement or update bid statement may, in the
88 discretion of the awarding authority, result in termination of any
89 contract awarded the [applicant] contractor or substantial
90 subcontractor by the awarding authority. The awarding authority shall
91 provide written notice to the commissioner of such false statement not
92 later than thirty days after discovering such false statement. The
93 commissioner shall provide written notice of such false statement to
94 the Commissioner of Public Works, the Commissioner of Consumer
95 Protection and the President of The University of Connecticut not later
96 than thirty days after discovering such false statement or receiving
97 such notice.

98 (2) The commissioner shall deny or revoke the prequalification of
99 any [person] contractor or substantial subcontractor if the
100 commissioner finds that the [person] contractor or substantial
101 subcontractor, or a principal or key personnel of such contractor or
102 substantial contractor, within the past five years (A) has included any
103 materially false statement in [such] a prequalification application,
104 update statement or update bid statement, (B) has been convicted of,
105 entered a plea of guilty or nolo contendere for, or admitted to, a crime
106 related to the procurement or performance of any public or private
107 construction contract, or [within the past five years,] (C) has otherwise
108 engaged in fraud in obtaining or maintaining prequalification. Any
109 revocation made pursuant to this subsection shall be made only after
110 an opportunity for a hearing. Any [person] contractor or substantial
111 subcontractor whose prequalification has been revoked pursuant to
112 this subsection shall be disqualified for a period of two years after
113 which the [person] contractor or substantial subcontractor may
114 reapply for prequalification, except that a [person] contractor or
115 substantial subcontractor whose prequalification has been revoked on
116 the basis of conviction of a crime or engaging in fraud shall be
117 disqualified for a period of five years after which the [person]
118 contractor or substantial subcontractor may reapply for
119 prequalification. The commissioner shall not prequalify a [person]
120 contractor or substantial subcontractor whose prequalification has

121 been revoked pursuant to this subdivision until the expiration of said
122 two-year, five-year, or other applicable disqualification period and the
123 commissioner is satisfied that the matters that gave rise to the
124 revocation have been eliminated or remedied.

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

131 (m) The provisions of this section and section 4a-101, as amended by
132 this act, shall not apply to subcontractors who are not substantial
133 subcontractors.

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

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

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

147 (g) Notwithstanding the provisions of [subsection (a) of] this
148 section, any [political subdivision] public agency of the state, when
149 evaluating the performance of a contractor's subcontractors or
150 substantial subcontractors, to the extent known, may rely on an
151 evaluation of such subcontractors or substantial subcontractors that is

152 conducted by the contractor. No contractor shall be held liable to any
153 subcontractor or substantial subcontractor for any loss or injury
154 sustained by such subcontractor or substantial subcontractor as the
155 result of such evaluation provided to a public agency, unless such
156 contractor is found by a court of competent jurisdiction to have acted
157 in a wilful, wanton or reckless manner.

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

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

186 county in the state] notice posted on the State Contracting Portal.
187 Every contract for the construction, reconstruction, alteration,
188 remodeling, repair or demolition of any public building or any other
189 public work by a municipality that is paid for, in whole or in part, with
190 state funds and that is estimated to cost more than five hundred
191 thousand dollars, except a public highway or bridge project or any
192 other construction project administered by the Department of
193 Transportation, shall be awarded to a bidder that is prequalified
194 pursuant to section 4a-100, as amended by this act, after the
195 municipality has invited such bids by notice posted on the State
196 Contracting Portal. The Commissioner of Public Works, the joint
197 committee, [or] the constituent unit or the municipality, as the case
198 may be, shall indicate the prequalification classification required for
199 the contract in such [advertisement] notice. As used in this section,
200 "prequalification classification" means the prequalification
201 classifications established by the Commissioner of Administrative
202 Services pursuant to section 4a-100, as amended by this act.

203 (b) The Commissioner of Public Works, the joint committee or the
204 constituent unit, as the case may be, shall determine the manner of
205 submission and the conditions and requirements of such bids, and the
206 time within which the bids shall be submitted, consistent with the
207 provisions of sections 4b-91 to 4b-96, inclusive, as amended by this act.
208 Such award shall be made not later than ninety days after the opening
209 of such bids. If the general bidder selected as the general contractor
210 fails to perform the general contractor's agreement to execute a
211 contract in accordance with the terms of the general contractor's
212 general bid and furnish a performance bond and also a labor and
213 materials or payment bond to the amount specified in the general bid
214 form, an award shall be made to the next lowest responsible and
215 qualified general bidder. No employee of the Department of Public
216 Works, the joint committee or a constituent unit with decision-making
217 authority concerning the award of a contract and no public official, as
218 defined in section 1-79, may communicate with any bidder prior to the
219 award of the contract if the communication results in the bidder

220 receiving information about the contract that is not available to other
221 bidders, except that if the lowest responsible and qualified bidder's
222 price submitted is in excess of funds available to make an award, the
223 Commissioner of Public Works, the Joint Committee on Legislative
224 Management or the constituent unit, as the case may be, may negotiate
225 with such bidder and award the contract on the basis of the funds
226 available, without change in the contract specifications, plans and
227 other requirements. If the award of a contract on said basis is refused
228 by such bidder, the Commissioner of Public Works, the Joint
229 Committee on Legislative Management or the constituent unit, as the
230 case may be, may negotiate with other contractors who submitted bids
231 in ascending order of bid prices without change in the contract,
232 specifications, plans and other requirements. In the event of
233 negotiation with general bidders as provided in this section, the
234 general bidder involved may negotiate with subcontractors on the
235 same basis, provided such general bidder shall negotiate only with
236 subcontractors named on such general bidder's general bid form.

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

245 (d) Each bid submitted for a contract described in subsection (c) of
246 this section shall include [a copy of a prequalification certificate issued
247 by the Commissioner of Administrative Services. The bid shall also be
248 accompanied by] an update bid statement in such form as the
249 Commissioner of Administrative Services prescribes and, if required
250 by the state or municipal agency soliciting such bid, a copy of the
251 prequalification certificate issued by the Commissioner of
252 Administrative Services. The form for such update bid statement shall
253 provide space for information regarding all projects completed by the

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

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

280 (f) Any person who receives information from a state employee or
281 public official that is not available to the general public concerning any
282 construction, reconstruction, alteration, remodeling, repair or
283 demolition project on a public building or any other public work prior
284 to the date that [an advertisement] a notice for bids on the project is
285 [published] posted shall be disqualified from bidding on the project.

286 (g) Notwithstanding the provisions of this chapter regarding

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

309 (h) Any agency that seeks to have a project awarded without being
310 subject to competitive bidding procedures shall certify to the joint
311 committee of the General Assembly having cognizance of matters
312 relating to government administration and elections that the project is
313 of such an emergency nature that an exception to the competitive
314 bidding procedures of this section is required. Such certification shall
315 include input from all affected agencies, detail the need for the
316 exception and include any relevant documentation.

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

321 no later than thirty days after the Commissioner of Public Works
 322 submits such contract to the board. Such review shall be conducted in
 323 accordance with the provisions of section 4b-3. In the event that such
 324 review does not occur within the thirty-day period prescribed by this
 325 subsection, such contract shall be deemed to be approved.

326 (j) On and after [October 1, 2007] the effective date of this section, no
 327 person whose subcontract exceeds five hundred thousand dollars in
 328 value may perform work as a subcontractor on a project for the
 329 construction, reconstruction, alteration, remodeling, repair or
 330 demolition of any public building [for work] or any other public work
 331 by the state or a municipality, except a public highway or bridge
 332 project or any other construction project administered by the
 333 Department of Transportation, which project is estimated to cost more
 334 than five hundred thousand dollars and is paid for, in whole or in part,
 335 with state funds, unless the person is prequalified in accordance with
 336 section 4a-100, as amended by this act. The provisions of this
 337 subsection shall not apply to a project described in subdivision (2) of
 338 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

GAE *Joint Favorable Subst.*

JUD *Joint Favorable*

APP *Joint Favorable*