



Senate

General Assembly

File No. 472

February Session, 2010

Substitute Senate Bill No. 347

Senate, April 12, 2010

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CONTRACTUAL BIDDING PREFERENCES FOR VETERAN-OWNED BUSINESSES.

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

1 Section 1. Subsection (c) of section 4a-59 of the 2010 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2010*):

4 (c) All open market orders or contracts shall be awarded to (1) the
5 lowest responsible qualified bidder, the qualities of the articles to be
6 supplied, their conformity with the specifications, their suitability to
7 the requirements of the state government and the delivery terms being
8 taken into consideration and, at the discretion of the Commissioner of
9 Administrative Services, life-cycle costs and trade-in or resale value of
10 the articles may be considered where it appears to be in the best
11 interest of the state, (2) the highest scoring bidder in a multiple criteria
12 bid, in accordance with the criteria set forth in the bid solicitation for
13 the contract, or (3) the proposer whose proposal is deemed by the

14 awarding authority to be the most advantageous to the state, in
15 accordance with the criteria set forth in the request for proposals,
16 including price and evaluation factors. Notwithstanding any provision
17 of the general statutes to the contrary, each state agency awarding a
18 contract through competitive negotiation shall include price as an
19 explicit factor in the criteria in the request for proposals and for the
20 contract award. In considering past performance of a bidder for the
21 purpose of determining the "lowest responsible qualified bidder" or
22 the "highest scoring bidder in a multiple criteria bid", the
23 commissioner shall evaluate the skill, ability and integrity of the
24 bidder in terms of the bidder's fulfillment of past contract obligations
25 and the bidder's experience or lack of experience in delivering
26 supplies, materials, equipment or contractual services of the size or
27 amount for which bids have been solicited. In determining the lowest
28 responsible qualified bidder for the purposes of this section, the
29 commissioner may give a price preference of up to ten per cent for (A)
30 the purchase of goods made with recycled materials or the purchase of
31 recyclable or remanufactured products if the commissioner determines
32 that such preference would promote recycling or remanufacturing; [.
33 As used in this subsection, "recyclable" means able to be collected,
34 separated or otherwise recovered from the solid waste stream for
35 reuse, or for use in the manufacture or assembly of another package or
36 product, by means of a recycling program which is reasonably
37 available to at least seventy-five per cent of the state's population,
38 "remanufactured" means restored to its original function and thereby
39 diverted from the solid waste stream by retaining the bulk of
40 components that have been used at least once and by replacing
41 consumable components and "remanufacturing" means any process by
42 which a product is remanufactured;] (B) the purchase of motor
43 vehicles powered by a clean alternative fuel; (C) the purchase of motor
44 vehicles powered by fuel other than a clean alternative fuel and
45 conversion equipment to convert such motor vehicles allowing the
46 vehicles to be powered by either the exclusive use of clean alternative
47 fuel or dual use of a clean alternative fuel and a fuel other than a clean
48 alternative fuel; [. As used in this subsection, "clean alternative fuel"

49 shall mean natural gas or electricity when used as a motor vehicle fuel;
50 or] (D) the purchase of goods or services from micro businesses; [As
51 used in this subsection, "micro business" means a business with gross
52 revenues not exceeding three million dollars in the most recently
53 completed fiscal year] or (E) the purchase of goods or services from a
54 veteran-owned business. All other factors being equal, preference shall
55 be given to supplies, materials and equipment produced, assembled or
56 manufactured in the state and services originating and provided in the
57 state. If any such bidder refuses to accept, within ten days, a contract
58 awarded to such bidder, such contract may be awarded to the next
59 lowest responsible qualified bidder or the next highest scoring bidder
60 in a multiple criteria bid, whichever is applicable, and so on until such
61 contract is awarded and accepted. If any such proposer refuses to
62 accept, within ten days, a contract awarded to such proposer, such
63 contract shall be awarded to the next most advantageous proposer,
64 and so on until the contract is awarded and accepted. There shall be a
65 written evaluation made of each bid. This evaluation shall identify the
66 vendors and their respective costs and prices, document the reason
67 why any vendor is deemed to be nonresponsive and recommend a
68 vendor for award. A contract valued at one million dollars or more
69 shall be awarded to a bidder other than the lowest responsible
70 qualified bidder or the highest scoring bidder in a multiple criteria bid,
71 whichever is applicable, only with written approval signed by the
72 Commissioner of Administrative Services and by the Comptroller. The
73 commissioner shall submit to the joint standing committee of the
74 General Assembly having cognizance of matters relating to
75 government administration, the State Auditors and the Comptroller,
76 an annual report of all awards made pursuant to the provisions of this
77 section. As used in this subsection, (i) "recyclable" means able to be
78 collected, separated or otherwise recovered from the solid waste
79 stream for reuse, or for use in the manufacture or assembly of another
80 package or product, by means of a recycling program which is
81 reasonably available to at least seventy-five per cent of the state's
82 population, (ii) "remanufactured" means restored to its original
83 function and thereby diverted from the solid waste stream by retaining

84 the bulk of components that have been used at least once and by
85 replacing consumable components, (iii) "remanufacturing" means any
86 process by which a product is remanufactured, (iv) "clean alternative
87 fuel" means natural gas or electricity when used as a motor vehicle
88 fuel, (v) "micro business" means a business with gross revenues not
89 exceeding three million dollars in the most recently completed fiscal
90 year, and (vi) "veteran-owned business" means any business of which
91 at least fifty-one per cent of the ownership is held by one or more
92 veterans, as defined in subsection (a) of section 27-103.

93 Sec. 2. Subsection (a) of section 4b-91 of the 2010 supplement to the
94 general statutes is repealed and the following is substituted in lieu
95 thereof (*Effective October 1, 2010*):

96 (a) Every contract for the construction, reconstruction, alteration,
97 remodeling, repair or demolition of any public building or any other
98 public work by the state except a public highway or bridge project or
99 any other construction project administered by the Department of
100 Transportation, which is estimated to cost more than five hundred
101 thousand dollars, except a contract awarded by the Commissioner of
102 Public Works for (1) a community court project, as defined in
103 subsection (j) of section 4b-55, (2) the downtown Hartford higher
104 education center project, as defined in subsection (l) of section 4b-55,
105 (3) a correctional facility project, as defined in subsection (m) of section
106 4b-55, (4) a juvenile detention center project, as defined in subsection
107 (n) of section 4b-55, or (5) a student residential facility for the
108 Connecticut State University System that is a priority higher education
109 facility project, as defined in subsection (f) of section 4b-55, shall be
110 awarded to the lowest responsible and qualified general bidder who is
111 prequalified pursuant to section 4a-100 on the basis of competitive bids
112 in accordance with the procedures set forth in this chapter, after the
113 Commissioner of Public Works or, in the case of a contract for the
114 construction of or work on a building or other public work under the
115 supervision and control of the Joint Committee on Legislative
116 Management of the General Assembly, the joint committee or, in the
117 case of a contract for the construction of or work on a building or other

118 public work under the supervision and control of one of the
119 constituent units of the state system of higher education, the
120 constituent unit, has invited such bids by notice posted on the State
121 Contracting Portal. Every contract for the construction, reconstruction,
122 alteration, remodeling, repair or demolition of any public building or
123 any other public work by a public agency that is paid for, in whole or
124 in part, with state funds and that is estimated to cost more than five
125 hundred thousand dollars, except a public highway or bridge project
126 or any other construction project administered by the Department of
127 Transportation, shall be awarded to a bidder that is prequalified
128 pursuant to section 4a-100 after the public agency has invited such bids
129 by notice posted on the State Contracting Portal. The Commissioner of
130 Public Works, the joint committee, the constituent unit or the public
131 agency, as the case may be, shall indicate the prequalification
132 classification required for the contract in such notice. In determining
133 the lowest responsible and qualified general bidder for the purposes of
134 this section, the Commissioner of Public Works may give a price
135 preference of up to ten per cent for a bidder that is a veteran-owned
136 business. As used in this section, "prequalification classification"
137 means the prequalification classifications established by the
138 Commissioner of Administrative Services pursuant to section 4a-100, [. As used in this section,] "public agency" means public agency, as
139 defined in section 1-200, and "veteran-owned business" means any
140 business of which at least fifty-one per cent of the ownership is held by
141 one or more veterans, as defined in subsection (a) of section 27-103.
142

143 Sec. 3. Section 13a-95 of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective October 1, 2010*):

145 The commissioner may, at any time, call for bids to construct, alter,
146 reconstruct, improve, relocate, widen or change the grade of sections
147 of state highways or bridges. All bids shall be submitted on forms
148 provided by the commissioner and shall comply with the rules and
149 regulations provided in the bid specifications. The commissioner shall
150 state the amount of the bond which shall accompany each bid and
151 shall name the place where bids shall be received and the time and

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Various State Agencies	App Fund – Precludes Savings	See Below	See Below

Note: App Fund=All Appropriated Funds

Municipal Impact: None

Explanation

The bill authorizes the Department of Administrative Services (DAS), Department of Public Works (DPW), and the Department of Transportation (DOT) to give veteran-owned businesses a maximum 10% bid preference when determining the lowest qualified bidder for state contracts. There is potential precluded savings to various state agencies to the extent that a higher veteran-owned business is awarded a contract over a lower qualified non-veteran bidder.

The Out Years

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

OLR Bill Analysis**sSB 347*****AN ACT CONCERNING CONTRACTUAL BIDDING PREFERENCES FOR VETERAN-OWNED BUSINESSES.*****SUMMARY:**

This bill authorizes the following state agencies to give veteran-owned businesses a maximum 10% bid preference when determining the lowest qualified bidder for state contracts that are put to bid:

1. Department of Administrative Services, for open market orders or contracts for goods or services;
2. Department of Public Works, for state construction, reconstruction, remodeling, alteration, repair, and demolition projects; and
3. Department of Transportation, for state highway and bridge construction, repairs, improvement, and relocation.

Under the bill, a business is “veteran-owned” if at least 51% of it is owned by one or more veterans honorably discharged from active service in the armed forces.

The bill’s veterans’ preference provision is in addition to other preferences and set-aside requirements agencies must consider in awarding contracts.

EFFECTIVE DATE: October 1, 2010

BACKGROUND***Set-Aside and Preference Requirements***

By law, all purchases of, and contracts for, supplies, material, equipment, and contractual services for Executive Branch agencies are

awarded primarily by competitive bidding or proposals (CGS § 4e-19). The law further requires that, “all other factors being equal,” preference must be given to Connecticut companies that manufacture or assemble the required commodities or equipment or originate and provide the required services.

The law requires the agencies to give up to a 10% bid preference for the purchase of:

1. recyclable or remanufactured products,
2. motor vehicles powered by clean alternative fuel,
3. motor vehicles powered by other fuel and conversion equipment to convert them to use clean alternative fuel,
4. goods made with recycled material, and
5. goods or services from micro businesses (CGS § 4a-59).

The law also requires that agencies set aside at least 25% of the total value of the contracts they let for construction, goods, and services each year for bidding exclusively by state-certified small businesses, minority business enterprises, individuals with disabilities, and nonprofit corporations. The agencies must further set aside 25% of the set-aside value (6.25% of the total) for exclusive bidding by minority businesses (CGS § 4a-60g).

The law also allows the transportation commissioner to make preferential contract awards of up to \$15 million in any fiscal year to (1) small businesses owned and controlled by socially and economically disadvantaged individuals as defined in federal law and (2) businesses that have at least 51% of their capital stock, if any, or assets owned by one or more people with a disability or members of minority groups (CGS § 13a-95a).

COMMITTEE ACTION

Select Committee on Veterans' Affairs

Joint Favorable Substitute Change of Reference
Yea 10 Nay 0 (03/11/2010)

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 14 Nay 0 (03/24/2010)