



General Assembly

February Session, 2010

**Raised Bill No. 285**

LCO No. 1512

\*01512\_\_\_\_\_GAE\*

Referred to Committee on Government Administration and Elections

Introduced by:  
(GAE)

**AN ACT CONCERNING CERTAIN CONSULTANT SELECTIONS BY THE DEPARTMENT OF PUBLIC WORKS AND PUBLIC BIDDING FOR JUDICIAL DEPARTMENT PUBLIC BUILDING CONTRACTS.**

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

1 Section 1. Subsection (i) of section 4b-23 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2 the general statutes is repealed and the following is substituted in lieu  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 (i) As used in this subsection, (1) "project" means any state program,  
5 except the downtown Hartford higher education center project, as  
6 defined in subsection (l) of section 4b-55, requiring consultant services  
7 if the cost of such services is estimated to exceed [one] three hundred  
8 thousand dollars; [or, in the case of a constituent unit of the state  
9 system of higher education, the cost of such services is estimated to  
10 exceed three hundred thousand dollars, or in the case of a building or  
11 premises under the supervision of the Office of the Chief Court  
12 Administrator or property where the Judicial Department is the  
13 primary occupant, the cost of such services is estimated to exceed three  
14 hundred thousand dollars;] (2) "consultant" means "consultant" as

15 defined in section 4b-55; and (3) "consultant services" means  
16 "consultant services" as defined in section 4b-55. Any contracts entered  
17 into by the commissioner with any consultants for employment (A) for  
18 any project under the provisions of this section, (B) in connection with  
19 a list established under subsection (d) of section 4b-51, or (C) by task  
20 letter issued by the commissioner to any consultant on such list  
21 pursuant to which the consultant will provide services valued in  
22 excess of [one] three hundred thousand dollars, shall be subject to the  
23 approval of the State Properties Review Board prior to the  
24 employment of said consultant or consultants by the commissioner.  
25 The State Properties Review Board shall, within thirty days, approve  
26 or disapprove the selection of or contract with any consultant made by  
27 the Commissioner of Public Works pursuant to sections 4b-1 and 4b-55  
28 to 4b-59, inclusive. If upon the expiration of the thirty-day period a  
29 decision has not been made, the State Properties Review Board shall be  
30 deemed to have approved such selection or contract.

31 Sec. 2. Section 4b-91 of the 2010 supplement to the general statutes is  
32 repealed and the following is substituted in lieu thereof (*Effective*  
33 *October 1, 2010*):

34 (a) Every contract for the construction, reconstruction, alteration,  
35 remodeling, repair or demolition of any public building or any other  
36 public work by the state except a public highway or bridge project or  
37 any other construction project administered by the Department of  
38 Transportation, which is estimated to cost more than five hundred  
39 thousand dollars, except a contract awarded by the Commissioner of  
40 Public Works for (1) a community court project, as defined in  
41 subsection (j) of section 4b-55, (2) the downtown Hartford higher  
42 education center project, as defined in subsection (l) of section 4b-55,  
43 (3) a correctional facility project, as defined in subsection (m) of section  
44 4b-55, (4) a juvenile detention center project, as defined in subsection  
45 (n) of section 4b-55, or (5) a student residential facility for the  
46 Connecticut State University System that is a priority higher education  
47 facility project, as defined in subsection (f) of section 4b-55, shall be

48 awarded to the lowest responsible and qualified general bidder who is  
49 prequalified pursuant to section 4a-100 on the basis of competitive bids  
50 in accordance with the procedures set forth in this chapter, after the  
51 Commissioner of Public Works or, in the case of a contract for the  
52 construction of or work on a building or other public work under the  
53 supervision and control of the Joint Committee on Legislative  
54 Management of the General Assembly, the joint committee or, in the  
55 case of a contract for the construction of or work on a building or other  
56 public work under the supervision and control of one of the  
57 constituent units of the state system of higher education, the  
58 constituent unit or, in the case of a contract for the construction of or  
59 work on a building or other public work under the supervision and  
60 control of the Judicial Branch, the Judicial Department, has invited  
61 such bids by notice posted on the State Contracting Portal. Every  
62 contract for the construction, reconstruction, alteration, remodeling,  
63 repair or demolition of any public building or any other public work  
64 by a public agency that is paid for, in whole or in part, with state funds  
65 and that is estimated to cost more than five hundred thousand dollars,  
66 except a public highway or bridge project or any other construction  
67 project administered by the Department of Transportation, shall be  
68 awarded to a bidder that is prequalified pursuant to section 4a-100  
69 after the public agency has invited such bids by notice posted on the  
70 State Contracting Portal. The Commissioner of Public Works, the joint  
71 committee, the constituent unit, the Judicial Department or the public  
72 agency, as the case may be, shall indicate the prequalification  
73 classification required for the contract in such notice. As used in this  
74 section, "prequalification classification" means the prequalification  
75 classifications established by the Commissioner of Administrative  
76 Services pursuant to section 4a-100. As used in this section, "public  
77 agency" means public agency, as defined in section 1-200.

78 (b) The Commissioner of Public Works, the joint committee, [or] the  
79 constituent unit or the Judicial Department, as the case may be, shall  
80 determine the manner of submission and the conditions and  
81 requirements of such bids, and the time within which the bids shall be

82 submitted, consistent with the provisions of sections 4b-91 to 4b-96,  
83 inclusive, as amended by this act. Such award shall be made not later  
84 than ninety days after the opening of such bids. If the general bidder  
85 selected as the general contractor fails to perform the general  
86 contractor's agreement to execute a contract in accordance with the  
87 terms of the general contractor's general bid and furnish a performance  
88 bond and also a labor and materials or payment bond to the amount  
89 specified in the general bid form, an award shall be made to the next  
90 lowest responsible and qualified general bidder. No employee of the  
91 Department of Public Works, the joint committee, [or] a constituent  
92 unit or the Judicial Department with decision-making authority  
93 concerning the award of a contract and no public official, as defined in  
94 section 1-79, may communicate with any bidder prior to the award of  
95 the contract if the communication results in the bidder receiving  
96 information about the contract that is not available to other bidders,  
97 except that if the lowest responsible and qualified bidder's price  
98 submitted is in excess of funds available to make an award, the  
99 Commissioner of Public Works, the Joint Committee on Legislative  
100 Management, [or] the constituent unit or the Judicial Department, as  
101 the case may be, may negotiate with such bidder and award the  
102 contract on the basis of the funds available, without change in the  
103 contract specifications, plans and other requirements. If the award of a  
104 contract on said basis is refused by such bidder, the Commissioner of  
105 Public Works, the Joint Committee on Legislative Management, [or]  
106 the constituent unit or the Judicial Department, as the case may be,  
107 may negotiate with other contractors who submitted bids in ascending  
108 order of bid prices without change in the contract, specifications, plans  
109 and other requirements. In the event of negotiation with general  
110 bidders as provided in this section, the general bidder involved may  
111 negotiate with subcontractors on the same basis, provided such  
112 general bidder shall negotiate only with subcontractors named on such  
113 general bidder's general bid form.

114 (c) No person may bid on a contract or perform work pursuant to a  
115 contract that is subject to the provisions of subsection (a) of this section

116 unless the person is prequalified in accordance with section 4a-100.

117 (d) Each bid submitted for a contract described in subsection (c) of  
118 this section shall include an update bid statement in such form as the  
119 Commissioner of Administrative Services prescribes and, if required  
120 by the public agency soliciting such bid, a copy of the prequalification  
121 certificate issued by the Commissioner of Administrative Services. The  
122 form for such update bid statement shall provide space for information  
123 regarding all projects completed by the bidder since the date the  
124 bidder's prequalification certificate was issued or renewed, all projects  
125 the bidder currently has under contract, including the percentage of  
126 work on such projects not completed, the names and qualifications of  
127 the personnel who will have supervisory responsibility for the  
128 performance of the contract, any significant changes in the bidder's  
129 financial position or corporate structure since the date the certificate  
130 was issued or renewed, any change in the contractor's qualification  
131 status as determined by the provisions of subdivision (6) of subsection  
132 (c) of section 4a-100 and such other relevant information as the  
133 Commissioner of Administrative Services prescribes. Any bid  
134 submitted without a copy of the prequalification certificate, if required  
135 by the public agency soliciting such bid, and an update bid statement  
136 shall be deemed invalid. Any public agency that accepts a bid  
137 submitted without a copy of such prequalification certificate, if  
138 required by such public agency soliciting such bid, and an update bid  
139 statement may become ineligible for the receipt of funds related to  
140 such bid.

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

149 (f) Any person who receives information from a state employee or  
150 public official that is not available to the general public concerning any  
151 construction, reconstruction, alteration, remodeling, repair or  
152 demolition project on a public building or any other public work prior  
153 to the date that a notice for bids on the project is posted shall be  
154 disqualified from bidding on the project.

155 (g) Notwithstanding the provisions of this chapter regarding  
156 competitive bidding procedures, the commissioner may select and  
157 interview at least three responsible and qualified general contractors  
158 who are prequalified pursuant to section 4a-100 and submit the three  
159 selected contractors to the construction services award panels process  
160 described in section 4b-100a and any regulation adopted by the  
161 commissioner. The commissioner may negotiate with the successful  
162 bidder a contract which is both fair and reasonable to the state for a  
163 community court project, as defined in subsection (j) of section 4b-55,  
164 the downtown Hartford higher education center project, as defined in  
165 subsection (l) of section 4b-55, a correctional facility project, as defined  
166 in subsection (m) of section 4b-55, a juvenile detention center project,  
167 as defined in subsection (n) of section 4b-55, or a student residential  
168 facility for the Connecticut State University System that is a priority  
169 higher education facility project, as defined in subsection (f) of section  
170 4b-55. The Commissioner of Public Works, prior to entering any such  
171 contract or performing any work on such project, shall submit such  
172 contract to the State Properties Review Board for review and approval  
173 or disapproval by the board, pursuant to subsection (i) of this section.  
174 Any general contractor awarded a contract pursuant to this subsection  
175 shall be subject to the same requirements concerning the furnishing of  
176 bonds as a contractor awarded a contract pursuant to subsection (b) of  
177 this section.

178 (h) Any agency that seeks to have a project awarded without being  
179 subject to competitive bidding procedures shall certify to the joint  
180 committee of the General Assembly having cognizance of matters  
181 relating to government administration and elections that the project is

182 of such an emergency nature that an exception to the competitive  
183 bidding procedures of this section is required. Such certification shall  
184 include input from all affected agencies, detail the need for the  
185 exception and include any relevant documentation.

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

195 (j) On and after October 5, 2009, no person whose subcontract  
196 exceeds five hundred thousand dollars in value may perform work as  
197 a subcontractor on a project for the construction, reconstruction,  
198 alteration, remodeling, repair or demolition of any public building or  
199 any other public work by the state or a municipality, except a public  
200 highway or bridge project or any other construction project  
201 administered by the Department of Transportation, which project is  
202 estimated to cost more than five hundred thousand dollars and is paid  
203 for, in whole or in part, with state funds, unless the person is  
204 prequalified in accordance with section 4a-100. The provisions of this  
205 subsection shall not apply to a project described in subdivision (2) of  
206 subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	4b-23(i)
Sec. 2	<i>October 1, 2010</i>	4b-91

**Statement of Purpose:**

To create parity between the dollar threshold for consultants on the "On-Call List" for nonhigher education projects and on the "On-Call

List" for higher education projects and to reflect the current rate of inflation in the industry and to clarify that the Judicial Department is required to use competitive bidding for every contract for construction, reconstruction and alteration of a public building or other public work which is estimated to cost more than \$500,000.

*[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.]*