DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE OF CONNECTICUT

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Senate Bill 329
An Act Concerning a Surety Bond Guaranty Program for Emerging Contractors

Joint Committee on Labor & Public Employees
March 8, 2012

The Department of Administrative Services (DAS) offers the following testimony in connection with **Senate Bill 329** ***"An Act Concerning a Surety Bond Guaranty Program for Emerging Contractors."*** This proposal would require Commissioner DeFronzo, as the DAS Commissioner and Acting DCS Commissioner, to consult with the Commissioners of Transportation, Economic and Community Development, and Labor, and develop a report relating to emerging contractors. Specifically, the report shall analyze "the feasibility of (1) alleviating, for emerging contractors, the bond requirements of section 4a-100 and 49-41 of the general statutes, and (2) establish a surety bond program to assist emerging contractors to more effectively compete for public works contracts."

DAS recognizes that some small and minority contractors have significant difficulty securing state contracts due to their inability to secure bonding. Over the past year, DAS has participated in numerous discussions and working groups with stakeholders on this issue. Indeed, with the passage of P.A. 11-229, DAS has taken steps to begin to address this obstacle by revising the construction contractor prequalification process to allow for an alternative mechanism for obtaining bonding, as follows:

> Each applicant shall include a statement of financial condition prepared by a certified public accountant that includes information concerning the applicant's assets and liabilities, *except if the applicant has been accepted into the bonding program of a certified community development financial institution, the applicant need only provide the financial documents required by such institution for the applicant to qualify for such program.* Each applicant shall provide a bonding company letter stating the aggregate work capacity and single project limit bonding capacity of the applicant, and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility. *For purposes of this subsection, "certified community development financial institution" means a community development bank, credit union or loan or venture capital fund that provides financial products and services in economically distressed markets and that is certified by the Certified Development Financial Institution Fund of the United States Department of the Treasury.* (P.A. 11-229, § 6, emphasis added.)

Although companies must still obtain the required bonding, this change allows companies to work with a Certified Community Development Financial Institution, thereby eliminating the burden of arranging for CPA-reviewed or audited financial statements in order to become prequalified to work on state-funded construction jobs.

To the extent the Committee wishes to address the bonding requirements directly, DAS respectfully suggests that a mechanism already exists within the Department of Economic and Community Development ("DECD"). As DAS learned in the process of developing its "Report on In-State Preference Policy in State Procurement" (submitted to the Labor Committee on January 1, 2012, pursuant to P.A. 11-229, § 9), DECD administers the Minority Bonding Guaranty program. This program facilitates the efforts of minority contractors to obtain payment bonds by giving surety companies confidence they will be reimbursed in the event of default by the contractor. In 2011, the Minority Bonding Guaranty program was expanded to cover New Haven, New London and Bridgeport.

On page 27 of that report under "potential legislative changes" the Working Group offered the following recommendation:

> As noted in this report, the requirement that contractors be bonded is a significant impediment to a number of smaller contractor firms. They simply lack the assets or work history that would allow them to meet the requirements for obtaining the requisite level of bonding for many state projects. Programs that subsidize or guarantee bond requirements on some projects could assist a number of smaller local firms in obtaining state business. Weighing against this would be the budget constraints to providing such a subsidy, as well as the risk to the state if the projects are not completed on time or on budget. The bond authorization for programs like the minority bonding guaranty program of the Department of Economic and Community Development could be expanded to include support for bid bonds and performance bonds.

While DAS is willing to participate on any working groups that the Committee deems appropriate, we suggest that a general study may not be as useful as a more focused analysis of whether, and to what extent, this existing program could be adapted to address the Committee's goals.

Thank you for your consideration of DAS's views regarding SB 329. We would be happy to meet with the Committee at any time to discuss it further.