



Substitute Senate Bill No. 889

Public Act No. 13-177

**AN ACT CONCERNING THE UNIVERSITY OF CONNECTICUT AND
COMPETITIVE BIDDING FOR AGRICULTURAL PURCHASES BY
THE CONSTITUENT UNITS OF HIGHER EDUCATION.**

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

Section 1. Subsection (c) of section 10a-109n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(c) (1) Any construction contract to which the university is a party may include a provision that the design professional who designed the project, or an architect or professional engineer or construction manager retained or employed specifically for the purpose of supervision, may supervise the work to be performed through to completion and ensure that the materials furnished and the work performed are in accordance with the drawings, plans, specifications and contracts therefor.

(2) (A) Except as provided in subparagraph (B) of this subdivision, any total cost basis contract or other contract for the construction of a university project which is estimated to cost more than five hundred thousand dollars, shall be publicly let by the university. The university shall give notice to contractors interested in prequalifying to submit a

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project proposal or bid, by advertising, at least once, in one or more newspapers having general circulation in the state and by posting the advertisement on the university web site. The notice to prequalify shall contain the requirement that contractors be prequalified pursuant to section 4a-100, a statement of the time and place where the responses shall be received and such additional information as the university deems appropriate. Upon receipt of such responses, the university shall select each contractor who has been prequalified pursuant to section 4a-100 and has shown itself able to post surety bonds required by such contract and has demonstrated that it possesses the financial, managerial and technical ability and the integrity necessary and without conflict of interest for faithful and efficient performance of the work provided for therein. The university shall evaluate whether each such contractor is responsible and qualified based on its experience with projects similar to that for which the bid or proposal is to be submitted and based on objective written criteria included in the application to request prequalification with respect to such contract. The university shall also consider whether a contractor, and any subcontractor on the contractor's previous projects, has been in compliance with the provisions of part III of chapter 557 and chapter 558 during the previous five calendar years.

(B) Notwithstanding the provisions of subparagraph (A) of this subdivision, the board of trustees may approve a total cost basis contract or other contract for the construction of a university project which is estimated to cost more than five hundred thousand dollars that has not been publicly let pursuant to the provisions of said subparagraph (A), provided the board deems the contract to address an emergency.

(3) The university shall thereafter give notice to those so prequalified by the university pursuant to subdivision (2) of this section of the time and place where the public letting shall occur and

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shall include in such notice such information of the work required as appropriate. Each bid or proposal shall be kept sealed until opened publicly at the time and place as set forth in the notice soliciting such bid or proposal. The university shall not award any construction contract, including, but not limited to, any total cost basis contract, after public letting, except to the responsible qualified contractor, submitting the lowest bid or proposal in compliance with the bid or proposal requirements of the solicitation document. The university may, however, waive any informality in a bid or proposal, and may either reject all bids or proposals and again advertise for bids or proposals or interview at least three responsible qualified contractors and negotiate and enter into with any one of such contractors that construction contract which is both fair and reasonable to the university.

(4) The notice to each contractor prequalified to submit a proposal or bid and the construction contract, including each total cost basis contract, awarded by the university shall contain such other terms and conditions, and such provisions for penalties as the university may deem appropriate.

(5) No payments shall be made by the university on account of any contract for the project awarded by or for the university until the bills or estimates presented for such payment shall have been duly certified to be correct by the university. No payments shall be made from any other fund on account of any contract for any project awarded by or for the university until the bills or estimates presented for such payment shall have been duly certified to be correct by the university.

(6) Provision shall be made in each contract to the effect that payment is limited to the amount provided therein and that no liability of the university or state shall and may be incurred beyond such amount.

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(7) The university shall require, for the protection of the state and the university, such deposits, bonds and security in connection with the submission of bids or proposals, the award of construction contracts and the performance of work as the university shall determine to be appropriate and in the public interest of the state.

(8) Any contract awarded by the university shall be a contract with the state acting through the university.

(9) The university shall not enter into a construction manager at-risk project delivery contract that does not provide for a maximum guaranteed price for the cost of construction which shall be determined not later than the time of the receipt and approval by the university of the trade contractor bids. Each construction manager at-risk shall invite bids and give notice of opportunities to bid on project elements, by advertising, at least once, in one or more newspapers having general circulation in the state and by posting the advertisement on the Internet. Each bid shall be kept sealed until opened publicly at the time and place as set forth in the notice soliciting such bid. The construction manager at-risk shall, after consultation with and approval by the university, award any related contracts for project elements to the responsible qualified contractor, who shall be prequalified pursuant to section 4a-100, submitting the lowest bid in compliance with the bid requirements, provided (A) the construction manager at-risk shall not be eligible to submit a bid for any such project element, and (B) construction shall not begin prior to the determination of the maximum guaranteed price, except for the project elements of site preparation and demolition that have been previously put out to bid and awarded.

(10) If the university designates a project as suitable for a design-build contract, the university may enter into a single contract with a design-builder recommended by a selection panel and selected by the university. The university shall give notice of such project and

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specifications for such project by posting such notice on the Internet. The university shall establish a selection panel for each project to score the qualifications and past performance of each design-builder who submits a competitive proposal to the university for such project. The selection panel shall score the qualifications and past performance of each design-builder using a predetermined scoring method developed by the university and provided to each design-builder in advance of such design-builder's development of the competitive proposal. The selection panel's scoring method may be unique to each project, but shall consist of combining the score of each design-builder's qualifications and past performance and evaluating the technical merit of the competitive proposal and each design-builder's projected project cost. The design-build contract shall (A) include, but not be limited to, such project elements as permitting, engineering, design, construction and, if applicable, site acquisition, and (B) be based on the competitive proposal submitted by the design-builder that is selected by the university. No design-build contract for which the total cost is estimated to be more than five hundred thousand dollars may be awarded to a design-builder who is not prequalified for the project in accordance with section 4a-100. Such design-build contracts shall state the responsibilities of the design-builder to deliver a completed and acceptable project on a date certain and the maximum costs of the project and, if applicable, as a separate item, the cost of any site acquisition. The university shall determine all other requirements and conditions for such competitive proposals, selection of a design-builder and other awards and shall have sole responsibility for all other aspects of such design-build contracts.

Sec. 2. Subdivision (28) of section 10a-109c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(28) "Total cost basis contract" means a design-build contract or a

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construction manager at-risk project delivery contract between The University of Connecticut and a contractor to accomplish multiple elements of a project, including, but not limited to, site acquisition, architectural design, preconstruction activities, project management and construction.

Sec. 3. Subsection (c) of section 10a-151b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(c) Notwithstanding the provisions of subsection (b) of this section to the contrary, competitive bidding or competitive negotiation is not required in the case of (1) minor purchases of ten thousand dollars or less in amount, (2) purchases made pursuant to subsection (k) of this section, [or] (3) emergency purchases, or (4) agricultural purchases of dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits, vegetables or other farm products in an amount of fifty thousand dollars or less. Whenever an emergency exists by reason of extraordinary conditions or contingencies that could not reasonably be foreseen and guarded against, or because of unusual trade or market conditions, the chief executive officer may, if it is for the best interest of the state, make purchases without competitive bidding. A statement of all emergency purchases made under the provisions of this subsection shall be set forth in the annual report of the chief executive officer. The chief executive officer, when making an agricultural purchase in accordance with subdivision (4) of this subsection, shall give preference to dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits, vegetables or other farm products grown or produced in this state when such products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits or vegetables are comparable in cost to other dairy products, poultry, eggs, fruits or vegetables being considered for purchase by the chief executive officer that have not been grown or produced in this state.

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