



General Assembly

January Session, 2013

**Raised Bill No. 6579**

LCO No. 3868



Referred to Committee on GOVERNMENT ADMINISTRATION  
AND ELECTIONS

Introduced by:  
(GAE)

**AN ACT CONCERNING THE PREQUALIFICATION OF  
SUBCONTRACTORS, REMOVING THE MUNICIPAL EXEMPTION  
FROM THE SET-ASIDE PROGRAM AND THE PERCENTAGE OF  
CONTRACTS RESERVED FOR MINORITY BUSINESS ENTERPRISES.**

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

1 Section 1. Subsection (b) of section 4a-100 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2013*):

4 (b) (1) Any person may apply for prequalification to the Department  
5 of Administrative Services. Such application shall be made on such  
6 form as the Commissioner of Administrative Services prescribes and  
7 shall be accompanied by a nonrefundable application fee as set forth in  
8 [subdivision] subdivisions (2) and (3) of this subsection. The  
9 application shall be signed under penalty of false statement.

10 (2) The application fee for contractors shall be as follows:

T1	Aggregate Work Capacity Rating	Fee
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T2	\$5,000,000.00 or less	\$600.00
T3	\$5,000,000.01 - \$8,000,000.00	\$750.00
T4	\$8,000,000.01 - \$10,000,000.00	\$850.00
T5	\$10,000,000.01 - \$15,000,000.00	\$1,000.00
T6	\$15,000,000.01 - \$20,000,000.00	\$1,500.00
T7	\$20,000,000.01 - \$40,000,000.00	\$2,000.00
T8	\$40,000,000.01 or more	\$2,500.00

11        (3) The application fee for subcontractors shall be as follows:

T9	<u>Aggregate Work Capacity Rating</u>	<u>Fee</u>
T10	<u>\$5,000,000.00 or less</u>	<u>\$600.00</u>
T11	<u>\$5,000,000.01 - \$8,000,000.00</u>	<u>\$750.00</u>
T12	<u>\$8,000,000.01 - \$10,000,000.00</u>	<u>\$850.00</u>
T13	<u>\$10,000,000.01 - \$15,000,000.00</u>	<u>\$1,000.00</u>
T14	<u>\$15,000,000.01 or more</u>	<u>\$1,500.00</u>

12        Sec. 2. Subsection (d) of section 4a-100 of the general statutes is  
13 repealed and the following is substituted in lieu thereof (*Effective*  
14 *October 1, 2013*):

15        (d) Each applicant who is a contractor shall also include a statement  
16 of financial condition prepared by a certified public accountant that  
17 includes information concerning the applicant's assets and liabilities,  
18 except if the applicant has been accepted into the bonding program of  
19 a certified community development financial institution, the applicant  
20 need only provide the financial documents required by such  
21 institution for the applicant to qualify for such program. Each  
22 applicant who is a contractor shall provide a bonding company letter  
23 stating the aggregate work capacity and single project limit bonding  
24 capacity of the applicant, and other information as the commissioner  
25 deems relevant to an evaluation of the applicant's financial capacity  
26 and responsibility. For purposes of this subsection, "certified

27 community development financial institution" means a community  
28 development bank, credit union or loan or venture capital fund that  
29 provides financial products and services in economically distressed  
30 markets and that is certified by the Certified Development Financial  
31 Institution Fund of the United States Department of the Treasury.

32 Sec. 3. Subsections (a) to (d), inclusive, of section 4a-60g of the  
33 general statutes are repealed and the following is substituted in lieu  
34 thereof (*Effective October 1, 2013*):

35 (a) As used in this section and sections 4a-60h to 4a-60j, inclusive,  
36 the following terms have the following meanings:

37 (1) "Small contractor" means any contractor, subcontractor,  
38 manufacturer, service company or nonprofit corporation (A) that  
39 maintains its principal place of business in the state, and (B) that had  
40 gross revenues not exceeding fifteen million dollars in the most  
41 recently completed fiscal year prior to such application. "Small  
42 contractor" does not include any person who is affiliated with another  
43 person if both persons considered together have a gross revenue  
44 exceeding fifteen million dollars.

45 (2) "State agency" means each state board, commission, department,  
46 office, institution, council or other agency with the power to contract  
47 for goods or services itself or through its head.

48 (3) "Minority business enterprise" means any small contractor (A)  
49 fifty-one per cent or more of the capital stock, if any, or assets of which  
50 are owned by a person or persons (i) who exercise operational  
51 authority over the daily affairs of the enterprise, (ii) who have the  
52 power to direct the management and policies and receive the beneficial  
53 interest of the enterprise, and (iii) who are members of a minority [, as  
54 such term is defined in subsection (a) of section 32-9n] or who are  
55 women, (B) who is an individual with a disability, or (C) which is a  
56 nonprofit corporation in which fifty-one per cent or more of the  
57 persons who (i) exercise operational authority over the enterprise, and

58 (ii) have the power to direct the management and policies of the  
59 enterprise are members of a minority, [as defined in this subsection,]  
60 are women or are individuals with a disability.

61 (4) "Minority" means (A) Black Americans, including all persons  
62 having origins in any of the Black African racial groups not of  
63 Hispanic origin; (B) Hispanic Americans, including all persons of  
64 Mexican, Puerto Rican, Cuban, Central or South American, or other  
65 Spanish culture or origin, regardless of race; (C) all persons having  
66 origins in the Iberian Peninsula, including Portugal, regardless of race;  
67 (D) Asian Pacific Americans and Pacific islanders; or (E) American  
68 Indians and persons having origins in any of the original peoples of  
69 North America and maintaining identifiable tribal affiliations through  
70 membership and participation or community identification.

71 ~~[(4)]~~ (5) "Affiliated" means the relationship in which a person  
72 directly, or indirectly through one or more intermediaries, controls, is  
73 controlled by or is under common control with another person.

74 ~~[(5)]~~ (6) "Control" means the power to direct or cause the direction of  
75 the management and policies of any person, whether through the  
76 ownership of voting securities, by contract or through any other direct  
77 or indirect means. Control shall be presumed to exist if any person,  
78 directly or indirectly, owns, controls, holds with the power to vote, or  
79 holds proxies representing, twenty per cent or more of any voting  
80 securities of another person.

81 ~~[(6)]~~ (7) "Person" means any individual, corporation, limited  
82 liability company, partnership, association, joint stock company,  
83 business trust, unincorporated organization or other entity.

84 ~~[(7)]~~ (8) "Individual with a disability" means an individual (A)  
85 having a physical or mental impairment that substantially limits one or  
86 more of the major life activities of the individual, which mental  
87 impairment may include, but is not limited to, having one or more  
88 mental disorders, as defined in the most recent edition of the American

89 Psychiatric Association's "Diagnostic and Statistical Manual of Mental  
90 Disorders", or (B) having a record of such an impairment.

91 [(8)] (9) "Nonprofit corporation" means a nonprofit corporation  
92 incorporated pursuant to chapter 602 or any predecessor statutes  
93 thereto.

94 (b) It is found and determined that there is a serious need to help  
95 small contractors, minority business enterprises, nonprofit  
96 organizations and individuals with disabilities to be considered for  
97 and awarded state contracts for the construction, reconstruction or  
98 rehabilitation of public buildings, the construction and maintenance of  
99 highways and the purchase of goods and services. Accordingly, the  
100 necessity, in the public interest and for the public benefit and good, of  
101 the provisions of this section, sections 4a-60h to 4a-60j, inclusive, and  
102 sections 32-9i to 32-9p, inclusive, is declared as a matter of legislative  
103 determination. Notwithstanding any provisions of the general statutes  
104 to the contrary, and except as set forth herein, the head of each state  
105 agency and each political subdivision of the state [other than a  
106 municipality] shall set aside in each fiscal year, for award to small  
107 contractors, on the basis of competitive bidding procedures, contracts  
108 or portions of contracts for the construction, reconstruction or  
109 rehabilitation of public buildings, the construction and maintenance of  
110 highways and the purchase of goods and services. Eligibility of  
111 nonprofit corporations under the provisions of this section shall be  
112 limited to predevelopment contracts awarded by the Commissioner of  
113 Economic and Community Development for housing projects. The  
114 total value of such contracts or portions thereof to be set aside by each  
115 such agency shall be at least twenty-five per cent of the total value of  
116 all contracts let by the head of such agency in each fiscal year,  
117 provided that neither: (1) A contract that may not be set aside due to a  
118 conflict with a federal law or regulation; or (2) a contract for any goods  
119 or services which have been determined by the Commissioner of  
120 Administrative Services to be not customarily available from or  
121 supplied by small contractors shall be included. Contracts or portions

122 thereof having a value of not less than twenty-five per cent of the total  
123 value of all contracts or portions thereof to be set aside shall be  
124 reserved for awards to minority business enterprises, provided not less  
125 than fifty per cent of the contracts or portions thereof so reserved shall  
126 be reserved for awards to minority business enterprises that are  
127 members of a minority.

128 (c) The head of any state agency or political subdivision of the state  
129 [other than a municipality] may, in lieu of setting aside any contract or  
130 portions thereof, require any general or trade contractor or any other  
131 entity authorized by such agency to award contracts, to set aside a  
132 portion of any contract for subcontractors who are eligible for set-aside  
133 contracts under this section. Nothing in this subsection shall be  
134 construed to diminish the total value of contracts which are required to  
135 be set aside by any state agency or political subdivision of the state  
136 [other than a municipality] pursuant to this section.

137 (d) The heads of all state agencies and of each political subdivision  
138 of the state [other than a municipality] shall notify the Commissioner  
139 of Administrative Services of all contracts to be set aside pursuant to  
140 subsection (b) or (c) of this section at the time that bid documents for  
141 such contracts are made available to potential contractors.

142 Sec. 4. Subsection (h) of section 4a-60g of the general statutes is  
143 repealed and the following is substituted in lieu thereof (*Effective*  
144 *October 1, 2013*):

145 (h) The provisions of this section shall not apply to any state agency  
146 or political subdivision of the state [other than a municipality] for  
147 which the total value of all contracts or portions of contracts of the  
148 types enumerated in subsection (b) of this section is anticipated to be  
149 equal to ten thousand dollars or less.

150 Sec. 5. Subsections (l) and (m) of section 4a-60g of the general  
151 statutes are repealed and the following is substituted in lieu thereof  
152 (*Effective October 1, 2013*):

153 (l) On or before August 30, 2007, and annually thereafter, each state  
154 agency and each political subdivision of the state [other than a  
155 municipality] setting aside contracts or portions of contracts shall  
156 prepare a report establishing small and minority business set-aside  
157 program goals for the twelve-month period beginning July first in the  
158 same year. Each such report shall be submitted to the Commissioner of  
159 Administrative Services, the Commission on Human Rights and  
160 Opportunities and the cochairpersons and ranking members of the  
161 joint standing committees of the General Assembly having cognizance  
162 of matters relating to planning and development and government  
163 administration and elections.

164 (m) On or before November 1, 1995, and quarterly thereafter, each  
165 state agency and each political subdivision of the state [other than a  
166 municipality] setting aside contracts or portions of contracts shall  
167 prepare a status report on the implementation and results of its small  
168 business and minority business enterprise set-aside program goals  
169 during the three-month period ending one month before the due date  
170 for the report. Each report shall be submitted to the Commissioner of  
171 Administrative Services and the Commission on Human Rights and  
172 Opportunities. Any state agency or political subdivision of the state [,  
173 other than a municipality,] that achieves less than fifty per cent of its  
174 small contractor and minority business enterprise set-aside program  
175 goals by the end of the second reporting period in any twelve-month  
176 period beginning on July first shall provide a written explanation to  
177 the Commissioner of Administrative Services and the Commission on  
178 Human Rights and Opportunities detailing how the agency or political  
179 subdivision will achieve its goals in the final reporting period. The  
180 Commission on Human Rights and Opportunities shall: (1) Monitor  
181 the achievement of the annual goals established by each state agency  
182 and political subdivision of the state; [other than a municipality;] and  
183 (2) prepare a quarterly report concerning such goal achievement. The  
184 report shall be submitted to each state agency that submitted a report,  
185 the Commissioner of Economic and Community Development, the

186 Commissioner of Administrative Services and the cochairpersons and  
187 ranking members of the joint standing committees of the General  
188 Assembly having cognizance of matters relating to planning and  
189 development and government administration, [and elections.] Failure  
190 by any state agency or political subdivision of the state [other than a  
191 municipality] to submit any reports required by this section shall be a  
192 violation of section 46a-77.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	4a-100(b)
Sec. 2	<i>October 1, 2013</i>	4a-100(d)
Sec. 3	<i>October 1, 2013</i>	4a-60g(a) to (d)
Sec. 4	<i>October 1, 2013</i>	4a-60g(h)
Sec. 5	<i>October 1, 2013</i>	4a-60g(l) and (m)

**Statement of Purpose:**

To modify the application fee range for subcontractors applying for prequalification, to exempt subcontractors from the requirement to submit a statement of financial condition and bonding company letter for prequalification, to remove the municipal exemption from the set-aside program requirements and to modify the percentage of contracts reserved for minority business enterprises by distinguishing women from minorities.

*[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.]*