



## SB 248

165 Capitol Avenue  
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An Act Concerning Public Works Projects and the Threshold for Competitive Bidding, Subcontractor Prequalification, Construction Manager At-Risk Project Delivery Contracts, the Hiring of Consultants and the Purchasing of Certain Property and Services

Government Administrations & Elections Committee  
March 3, 2014

The Department of Administrative Services (DAS) thanks the Government Administration & Elections Committee for raising Senate Bill 248, and offers the following testimony in support of the bill.

Senate Bill 248 includes several measures intended to streamline and improve DAS's construction processes. As background, please note that SB 248 is a combination of two 2013 bills - SB 978 (as amended by Senate A) and SB 1056 (as amended by Senate A) - both of which were approved unanimously by the Senate last legislative session.

### Increased Threshold

The current law requires DAS to use a very time-consuming formal process to bid all construction projects involving the design-bid-build method that are expected to cost \$500,000 or more. When this cost threshold was enacted in 1999, \$500,000 encompassed very large projects, where the extra time and administrative burdens associated with the formal process were commensurate with the risks associated with the size of the projects. In the 15 years since then, however, \$500,000 no longer serves that role. With increases in construction costs, prevailing wages, bonds and insurance, the \$500,000 threshold is crossed on relatively minor projects.

Accordingly, DAS proposes changing the cost threshold for design-bid-build projects that would be subject to the formal requirements from \$500,000 to \$1.5 million. Making this change will enable DAS to advance smaller projects to construction more expeditiously while still using transparent competitive procurement methods. Section 1 of SB 248 includes provisions requiring DAS to develop a competitive process of sealed bidding for construction projects estimated to cost between \$500,000 and \$1.5 million.

DAS anticipates that, in addition to reducing the time and costs associated with the formal bidding process, SB 248 will also encourage smaller contractors, who may have

found the formal state bidding process too daunting, to bid on these smaller state projects.

It should be noted that the threshold of \$1.5 million was developed last session by DAS in consultation with the Committee and construction industry representatives.

### Conforming Changes for State Emergencies

SB 248 also makes conforming changes to C.G.S. § 4b-52, which deals with emergency conditions in state facilities. Existing law gives the department the authority to respond to such emergency conditions without inviting bids. SB 248 increases the threshold for emergency repairs from \$500,000 to \$1.5 million. This increase would greatly assist the state in addressing emergency repairs in the most efficient and timely manner, increase the number of emergency situations that can be addressed concurrently, and provide for the most appropriate allocation of state personnel and resources. SB 248 includes the safeguard that for any emergency expenditures in excess of \$1.5 million dollars, the Commissioner must obtain the Governor's written consent and certify to the joint committee of the General Assembly having cognizance of matters relating to legislative management that the project is of such an emergency in nature that an exception to the formal bidding procedures of § 4b-91 is required.

### Prequalification at Time of Bid

SB 248 also includes a change to subsection (j) of section § 4b-91; specifically, SB 248 requires that subcontractors shall be prequalified at the time of the bid submittal, instead of at the time of performance of their work. This recommendation is intended to prevent situations where projects are delayed because the department must wait for the subcontractor to meet the prequalification requirements. This change will also prevent the delays that result from a subcontractor's inability to obtain DAS prequalification, and subsequent need to substitute either the subcontractor, or, in some cases, the prime contractor.

### Additional Early Work on CMR Projects

Section 5 of SB 248 is intended to remove unnecessary and costly barriers to the most effective utilization of the Construction Manager at Risk (CMR) project delivery method.

Under current law, a CMR project cannot proceed to the actual construction work, except for the limited project elements of demolition and site work, until all project element bids are received and awarded, and a Guaranteed Maximum Price (GMP) for the entire project has been determined. This bill would add to the list of project elements eligible for early work authorization prior to the determination of the GMP.

Allowing additional early work to the building exterior prevents weather intrusion and subsequent damage to the building interior, enables more efficient project management, and provides for optimal use of construction seasons.

A number of DAS construction projects involve renovations and additions to existing facilities that will remain occupied during the construction period. The work must be done in phases in order to accommodate the continued use of the building during the entire construction time period. Phasing a project may extend the duration of construction for several years.

The current requirement for CMR projects that all bids must be awarded and a single GMP be determined at the commencement of construction also places a difficult burden on bidders to estimate accurately the costs of materials, insurance and bond costs, and labor rates, several years into the future. This has the adverse effect of limiting the number of bidders and increasing the bids submitted (because the bidders must hedge against extraordinary escalation of costs). The proposed legislation would allow the project to be bid, and the GMP established in phases in situations where the building will be occupied during the construction period. This will encourage a greater number of bids at each phase of the work, and greater reliability in the numbers bid.

These improvements all serve to protect the state's real property assets, save the state money, and promote efficiency, without compromising integrity in the process.

#### Other Project Delivery Models

Finally, SB 248 makes a series of clarifications to ensure that DAS is able to fully utilize all potential delivery methods available to the State in providing construction-related services to our client agencies.

Specifically, Section 6 of SB 248 clarifies that the consultant on-call statute, C.G.S. §4b-51, includes the use of certain on-call consultants and consultant contracts on multiple projects under a special program of construction of new buildings or renovations of existing buildings under the operations and control of the Military Department or the Department of Energy and Environmental Protection. This clarification will provide greater flexibility and efficiency in the procurement of professional design and other consultant services for these agencies, which often have unique engineering and other building consultant needs. This revision does not diminish the requirement that on-call contracts will stipulate a maximum amount for the aggregate value of all task letters issued pursuant to the on-call contract and a period of years for the contract term.

Finally, section 7 of SB 248 clarifies that the Division of Construction Services within DAS may utilize the general DAS authority under C.G.S. §§ 4a-53 and 4a-66 to join in cooperative purchasing plans, and to purchase equipment, supplies, materials and

services from contracts entered into by the General Service Administration, other state governments, political subdivisions of this state, non-profit organizations or public purchasing consortia without the formal bidding procedure required under Part II of Chapter 60. This change will allow for more efficient construction on time-sensitive projects.

We again thank the Committee for its support of SB 248. If there are any questions about this bill or DAS's testimony, please feel free to contact Terrence Tulloch-Reid ([Terrence.Reid@ct.gov](mailto:Terrence.Reid@ct.gov)) or Andrea Keilty ([Andrea.Keilty@ct.gov](mailto:Andrea.Keilty@ct.gov)).