



General Assembly

**Substitute Bill No. 248**

February Session, 2014



**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.**

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

1 Section 1. Subsections (a) and (b) of section 4b-91 of the general  
2 statutes are repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2014*):

4 (a) [Every] (1) As used in this section, "prequalification  
5 classification" means the prequalification classifications established by  
6 the Commissioner of Administrative Services pursuant to section 4a-  
7 100, "public agency" has the same meaning as provided in section 1-  
8 200 and "awarding authority" means the Department of  
9 Administrative Services, except "awarding authority" means (A) the  
10 Joint Committee on Legislative Management, in the case of a contract  
11 for the construction of or work on a building or other public work  
12 under the supervision and control of the joint committee, or (B) the  
13 constituent unit of the state system of higher education, in the case of a  
14 contract for the construction of or work on a building or other public  
15 work under the supervision and control of such constituent unit.

16 (2) Except as provided in subdivision (3) of this subsection, every  
17 contract for the construction, reconstruction, alteration, remodeling,  
18 repair or demolition of any public building or any other public work

19 by the state [except a public highway or bridge project or any other  
20 construction project administered by the Department of  
21 Transportation, which] that is estimated to cost more than five  
22 hundred thousand dollars [, except a contract awarded by the  
23 Commissioner of Administrative Services for (1) a community court  
24 project, as defined in subsection (j) of section 4b-55, (2) the downtown  
25 Hartford higher education center project, as defined in subsection (l) of  
26 section 4b-55, (3) a correctional facility project, as defined in subsection  
27 (m) of section 4b-55, (4) a juvenile detention center project, as defined  
28 in subsection (n) of section 4b-55, or (5) a student residential facility for  
29 the Connecticut State University System that is a priority higher  
30 education facility project, as defined in subsection (f) of section 4b-55,]  
31 shall be awarded to the lowest responsible and qualified general  
32 bidder who is prequalified pursuant to section 4a-100 on the basis of  
33 competitive bids in accordance with the procedures set forth in this  
34 chapter, after the [Commissioner of Administrative Services or, in the  
35 case of a contract for the construction of or work on a building or other  
36 public work under the supervision and control of the Joint Committee  
37 on Legislative Management of the General Assembly, the joint  
38 committee or, in the case of a contract for the construction of or work  
39 on a building or other public work under the supervision and control  
40 of one of the constituent units of the state system of higher education,  
41 the constituent unit,] awarding authority has invited such bids by  
42 posting notice [posted] on the State Contracting Portal. The awarding  
43 authority shall indicate the prequalification classification required for  
44 the contract in such notice.

45 (3) The requirements set forth in subdivision (2) of this subsection  
46 shall not apply to (A) a public highway or bridge project or any other  
47 construction project administered by the Department of  
48 Transportation, or (B) a contract awarded by the Commissioner of  
49 Administrative Services for (i) any public building or other public  
50 works project administered by the Department of Administrative  
51 Services that is estimated to cost more than five hundred thousand  
52 dollars but less than one million five hundred thousand dollars, (ii) a

53 community court project, as defined in subsection (j) of section 4b-55,  
54 (iii) the downtown Hartford higher education center project, as  
55 defined in subsection (l) of section 4b-55, (iv) a correctional facility  
56 project, as defined in subsection (m) of section 4b-55, (v) a juvenile  
57 detention center project, as defined in subsection (n) of section 4b-55,  
58 or (vi) a student residential facility for the Connecticut State University  
59 System that is a priority higher education facility project, as defined in  
60 subsection (f) of section 4b-55.

61 (4) Every contract for the construction, reconstruction, alteration,  
62 remodeling, repair or demolition of any public building or any other  
63 public work by a public agency that is paid for, in whole or in part,  
64 with state funds and that is estimated to cost more than five hundred  
65 thousand dollars [, except a public highway or bridge project or any  
66 other construction project administered by the Department of  
67 Transportation,] shall be awarded to a bidder that is prequalified  
68 pursuant to section 4a-100 after the public agency has invited such bids  
69 by notice posted on the State Contracting Portal, except for (A) a public  
70 highway or bridge project or any other construction project  
71 administered by the Department of Transportation, or (B) any public  
72 building or other public works project administered by the  
73 Department of Administrative Services that is estimated to cost more  
74 than five hundred thousand dollars but less than one million five  
75 hundred thousand dollars. The [Commissioner of Administrative  
76 Services, the joint committee, the constituent unit or the public agency,  
77 as the case may be] awarding authority or public agency, as the case  
78 may be, shall indicate the prequalification classification required for  
79 the contract in such notice. [As used in this section, "prequalification  
80 classification" means the prequalification classifications established by  
81 the Commissioner of Administrative Services pursuant to section 4a-  
82 100. As used in this section, "public agency" means public agency, as  
83 defined in section 1-200.]

84 (5) Every contract for the construction, reconstruction, alteration,  
85 remodeling, repair or demolition of any public building or other public

86 works project administered by the Department of Administrative  
87 Services that is estimated to cost more than five hundred thousand  
88 dollars but less than one million five hundred thousand dollars shall  
89 be awarded, where practicable, through a process of sealed bidding  
90 developed by the Commissioner of Administrative Services. The  
91 process to be developed by the commissioner shall be different from  
92 the process required under this chapter and shall include, but not be  
93 limited to, the solicitation of bids from (A) at least three contractors  
94 from a list of preselected contractors, or (B) all available contractors  
95 from a list of preselected contractors if fewer than three are available,  
96 who are deemed by the commissioner to possess the skill, ability and  
97 integrity necessary to perform the specific scope of work for the  
98 purpose of providing construction services to the state.

99 (b) The [Commissioner of Administrative Services, the joint  
100 committee or the constituent unit, as the case may be,] awarding  
101 authority shall determine the manner of submission and the conditions  
102 and requirements of such bids, and the time within which the bids  
103 shall be submitted, consistent with the provisions of this section and  
104 sections [4b-91] 4b-92 to 4b-96, inclusive. Such award shall be made not  
105 later than ninety days after the opening of such bids. If the general  
106 bidder selected as the general contractor fails to perform the general  
107 contractor's agreement to execute a contract in accordance with the  
108 terms of the general contractor's general bid and furnish a performance  
109 bond and also a labor and materials or payment bond to the amount  
110 specified in the general bid form, an award shall be made to the next  
111 lowest responsible and qualified general bidder, or, in the case of a  
112 contract awarded by the Department of Administrative Services under  
113 subdivision (5) of subsection (a) of this section, to another qualified  
114 preselected contractor. No employee of [the Department of  
115 Administrative Services, the joint committee or a constituent unit] an  
116 awarding authority with decision-making authority concerning the  
117 award of a contract and no public official, as defined in section 1-79,  
118 may communicate with any bidder prior to the award of the contract if  
119 the communication results in the bidder receiving information about

120 the contract that is not available to other bidders, except that if the  
121 lowest responsible and qualified bidder's price submitted is in excess  
122 of funds available to make an award, the [Commissioner of  
123 Administrative Services, the Joint Committee on Legislative  
124 Management or the constituent unit, as the case may be,] awarding  
125 authority may negotiate with such bidder and award the contract on  
126 the basis of the funds available, without change in the contract  
127 specifications, plans and other requirements. If the award of a contract  
128 on [said] such basis is refused by such bidder, the [Commissioner of  
129 Administrative Services, the Joint Committee on Legislative  
130 Management or the constituent unit, as the case may be,] awarding  
131 authority may negotiate with other contractors who submitted bids in  
132 ascending order of bid prices without change in the contract,  
133 specifications, plans and other requirements. In the event of  
134 negotiation with general bidders as provided in this section, the  
135 general bidder involved may negotiate with subcontractors on the  
136 same basis, provided such general bidder shall negotiate only with  
137 subcontractors named on such general bidder's general bid form.

138 Sec. 2. Subsection (j) of section 4b-91 of the general statutes is  
139 repealed and the following is substituted in lieu thereof (*Effective July*  
140 *1, 2014*):

141 (j) [On and after October 5, 2009, no] No person whose subcontract  
142 exceeds five hundred thousand dollars in value may perform work as  
143 a subcontractor on a project for the construction, reconstruction,  
144 alteration, remodeling, repair or demolition of any public building or  
145 any other public work by the state or a municipality, except a public  
146 highway or bridge project or any other construction project  
147 administered by the Department of Transportation, which project is  
148 estimated to cost more than five hundred thousand dollars and is paid  
149 for, in whole or in part, with state funds, unless, at the time of the bid  
150 submission, the person is prequalified in accordance with section 4a-  
151 100. The provisions of this subsection shall not apply to [a project  
152 described in subdivision (2) of subsection (a) of this section] the

153 downtown Hartford higher education center project, as defined in  
154 subsection (l) of section 4b-55.

155 Sec. 3. Subsection (a) of section 4b-24b of the general statutes is  
156 repealed and the following is substituted in lieu thereof (*Effective July*  
157 *1, 2014*):

158 (a) Whenever realty uses designed uniquely for state use and for  
159 periods over five years are concerned, the Commissioner of  
160 Administrative Services shall, whenever practicable, attempt to  
161 construct on state-owned land. Whenever the Commissioner of  
162 Administrative Services has established specific plans and  
163 specifications for new construction on state land or new construction  
164 for sale to the state: (1) If it appears to the commissioner that the cost of  
165 the project shall be less than one million five hundred thousand  
166 dollars, contracts shall be made, where practicable, through a process  
167 of sealed bidding as provided in section 4b-91, as amended by this act,  
168 relating to projects in excess of one million five hundred thousand  
169 dollars; (2) if it appears to the commissioner that the space needs of the  
170 requesting agency are less than five thousand square feet, the  
171 commissioner shall, whenever practicable, carry on advertising, in  
172 accordance with the provisions of section 4b-34 relating to projects in  
173 excess of five thousand square feet, in order to allow an equal  
174 opportunity for third parties to do business with the state without  
175 regard to political affiliation, political contributions or relationships  
176 with persons in state, federal or local governmental positions.

177 Sec. 4. Section 4b-52 of the 2014 supplement to the general statutes is  
178 repealed and the following is substituted in lieu thereof (*Effective July*  
179 *1, 2014*):

180 (a) (1) No repairs, alterations or additions involving expense to the  
181 state of five hundred thousand dollars or less or, in the case of repairs,  
182 alterations or additions to a building rented or occupied by the Judicial  
183 Branch, one million two hundred fifty thousand dollars or less or, in  
184 the case of repairs, alterations or additions to a building rented or

185 occupied by a constituent unit of the state system of higher education,  
186 two million dollars or less, shall be made to any state building or  
187 premises occupied by any state officer, department, institution, board,  
188 commission or council of the state government and no contract for any  
189 construction, repairs, alteration or addition shall be entered into  
190 without the prior approval of the Commissioner of Administrative  
191 Services, except repairs, alterations or additions to a building under  
192 the supervision and control of the Joint Committee on Legislative  
193 Management and repairs, alterations or additions to a building under  
194 the supervision of The University of Connecticut. Repairs, alterations  
195 or additions which are made pursuant to such approval of the  
196 Commissioner of Administrative Services shall conform to all  
197 guidelines and procedures established by the Department of  
198 Administrative Services for agency-administered projects. (2)  
199 Notwithstanding the provisions of subdivision (1) of this subsection,  
200 repairs, alterations or additions involving expense to the state of five  
201 hundred thousand dollars or less may be made to any state building or  
202 premises under the supervision of the Office of the Chief Court  
203 Administrator or a constituent unit of the state system of higher  
204 education, under the terms of section 4b-11, and any contract for any  
205 such construction, repairs or alteration may be entered into by the  
206 Office of the Chief Court Administrator or a constituent unit of the  
207 state system of higher education without the approval of the  
208 Commissioner of Administrative Services.

209 (b) Except as provided in this section, no repairs, alterations or  
210 additions involving an expense to the state of more than five hundred  
211 thousand dollars or, in the case of [repairs, alterations or additions to a  
212 building rented or occupied by the Judicial Branch] any repair,  
213 alteration or addition administered by the Department of  
214 Administrative Services, more than one million [two] five hundred  
215 [fifty] thousand dollars, [or, in the case of repairs, alterations or  
216 additions to a building rented or occupied by a constituent unit of the  
217 state system of higher education, more than two million dollars,] shall  
218 be made to any state building or premises occupied by any state

219 officer, department, institution, board, commission or council of the  
220 state government, nor shall any contract for any construction, repairs,  
221 alteration or addition be entered into, until the Commissioner of  
222 Administrative Services or, in the case of the construction or repairs,  
223 alterations or additions to a building under the supervision and  
224 control of the Joint Committee on Legislative Management of the  
225 General Assembly, said joint committee or, in the case of construction,  
226 repairs, alterations or additions to a building involving expenditures in  
227 excess of five hundred thousand dollars but not more than one million  
228 two hundred fifty thousand dollars under the supervision and control  
229 of the Judicial Branch, said Judicial Branch or, in the case of the  
230 construction, repairs, alterations or additions to a building involving  
231 expenditures in excess of five hundred thousand dollars but not more  
232 than two million dollars under the supervision and control of one of  
233 the constituent units of higher education, the constituent unit, has  
234 invited bids thereon and awarded a contract thereon, in accordance  
235 with the provisions of sections 4b-91 to 4b-96, inclusive, as amended  
236 by this act. The Commissioner of Administrative Services, with the  
237 approval of the authority having the supervision of state employees or  
238 the custody of inmates of state institutions, without the necessity of  
239 bids, may employ such employees or inmates and purchase or furnish  
240 the necessary materials for the construction, erection, alteration, repair  
241 or enlargement of any such state building or premises occupied by any  
242 state officer, department, institution, board, commission or council of  
243 the state government.

244 (c) Whenever the Commissioner of Administrative Services declares  
245 that an emergency condition exists at any state facility, other than a  
246 building under the supervision and control of the Joint Committee on  
247 Legislative Management, and that the condition would adversely  
248 affect public safety or the proper conduct of essential state government  
249 operations, or said joint committee declares that such an emergency  
250 exists at a building under its supervision and control, the  
251 commissioner or the joint committee may employ such assistance as  
252 may be required to restore facilities under their control and

253 management, or the commissioner may so act upon the request of a  
254 state agency, to restore facilities under the control and management of  
255 such agency, without inviting bids as required in subsection (b) of this  
256 section. The commissioner shall take no action requiring the  
257 expenditure of more than one million five hundred thousand dollars to  
258 restore any facility under this subsection (1) without the written  
259 consent of the Governor, and (2) until the commissioner has certified to  
260 the [joint committee of the General Assembly having cognizance of  
261 matters relating to legislative management] Joint Committee on  
262 Legislative Management that the project is of such an emergency  
263 nature that an exception to subsection (b) of this section is required.  
264 Such certification shall include input from all affected agencies, detail  
265 the need for the exception and include any relevant documentation.  
266 The provisions of this subsection shall not apply if any person is  
267 obligated under the terms of an existing contract with the state to  
268 render such assistance. The annual report of the commissioner shall  
269 include a detailed statement of all expenditures made under this  
270 subsection.

271 (d) The Commissioner of Administrative Services may, during the  
272 term of a lease of a building or premises occupied by any state offices,  
273 department, institution, board, commission or council of the state  
274 government, (1) renegotiate the lease in order to enable the lessor to  
275 make necessary alterations or additions up to a maximum amount of  
276 five hundred thousand dollars, [and] subject to the approval of the  
277 State Properties Review Board, or (2) require that a security audit be  
278 conducted for such building or premises and, if necessary, renegotiate  
279 the lease in order to enable the lessor to make necessary alterations or  
280 additions to bring the building or premises into compliance with the  
281 security standards for state agencies established under section 4b-132.  
282 Alterations or additions under subdivision (2) of this subsection shall  
283 not be subject to the spending limit in subdivision (1) of this  
284 subsection, and a renegotiated lease under said subdivision (2) shall be  
285 subject to the approval of the State Properties Review Board, provided  
286 such approval requirement shall not compromise the security

287 requirements of chapter 60a and this section. The commissioner shall  
288 determine the manner of submission, conditions and requirements of  
289 bids and awards made for alterations or additions under this  
290 subsection. No lease shall be renegotiated under this subsection for a  
291 term less than five years. As used in this subsection, "security" and  
292 "security audit" have the meanings assigned to such terms in section  
293 4b-130.

294 Sec. 5. Section 4b-103 of the general statutes is repealed and the  
295 following is substituted in lieu thereof (*Effective July 1, 2014*):

296 (a) In order to carry out any provision of this title for the  
297 construction, renovation or alteration of buildings or facilities, the  
298 Commissioner of Administrative Services may enter into a  
299 construction manager at-risk project delivery contract.

300 (b) [The] Except as provided in subsections (c) and (d) of this  
301 section, the Commissioner of Administrative Services shall not enter  
302 into a construction manager at-risk project delivery contract that does  
303 not provide for a maximum guaranteed price for the cost of  
304 construction that shall be determined not later than the time of the  
305 receipt and approval by the commissioner of the trade contractor bids.  
306 Each construction manager at-risk shall invite bids and give notice of  
307 opportunities to bid on project elements [, by advertising, at least once,  
308 in one or more newspapers having general circulation in the state] on  
309 the State Contracting Portal. Each bid shall be kept sealed until opened  
310 publicly at the time and place as set forth in the notice soliciting such  
311 bid. The construction manager at-risk shall, after consultation with and  
312 approval by the commissioner, award any related contracts for project  
313 elements to the responsible qualified contractor submitting the lowest  
314 bid in compliance with the bid requirements, provided (1) the  
315 construction manager at-risk shall not be eligible to submit a bid for  
316 any such project element, and (2) construction shall not begin prior to  
317 the determination of the maximum guaranteed price, except for the  
318 project elements of site preparation and demolition that have been  
319 previously put out to bid and awarded.

320 (c) Construction may begin prior to the determination of the  
321 maximum guaranteed price for the project elements of site  
322 preparation, demolition, public utility installation and connections,  
323 and building envelope components, including the roof, doors,  
324 windows and exterior walls, provided (1) the project is the renovation  
325 of an existing building or facility; (2) the project element or elements  
326 involved in such early work have been previously put out to bid and  
327 awarded; and (3) the total cost of construction of the early work does  
328 not exceed twenty-five per cent of the estimated cost of construction  
329 for the entire project.

330 (d) If such project involves the renovation of an existing building or  
331 facility that will be performed in multiple phases while such building  
332 or facility remains occupied, the Commissioner of Administrative  
333 Services may enter into a construction manager at-risk project delivery  
334 contract that provides for the maximum guaranteed price to be  
335 determined for each phase of the project, prior to beginning each such  
336 phase, provided all requirements of subsection (b) of this section other  
337 than the timing of the determination of the maximum guaranteed price  
338 are complied with.

339 Sec. 6. Subsection (d) of section 4b-51 of the general statutes is  
340 repealed and the following is substituted in lieu thereof (*Effective July*  
341 *1, 2014*):

342 (d) (1) Notwithstanding any provision of the general statutes, the  
343 Commissioner of Administrative Services may select consultants to be  
344 on a list established for the purpose of providing any consultant  
345 services. Such list shall be established as provided in sections 4b-56  
346 and 4b-57. The commissioner may enter into a contract with any  
347 consultant on such list to perform a range of consultant services or to  
348 perform a range of tasks pursuant to a task letter detailing services to  
349 be performed under such contract.

350 (2) Notwithstanding any provision of the general statutes, the  
351 Commissioner of Administrative Services may (A) compile a list of

352 architects, professional engineers and construction administrators for  
 353 the limited purpose of providing consultant services for a particular  
 354 program involving various projects for the construction of new  
 355 buildings or renovations to existing buildings where such buildings  
 356 are under the operation and control of either the Military Department  
 357 or the Department of Energy and Environmental Protection, and (B)  
 358 enter into a contract with any architect, professional engineer or  
 359 construction administrator on such list for such limited purpose.

360 (3) As used in this subsection, "consultant" means "consultant" as  
 361 defined in section 4b-55, and "consultant services" means "consultant  
 362 services" as defined in section 4b-55.

363 Sec. 7. Section 4b-91 of the general statutes is amended by adding  
 364 subsection (k) as follows (*Effective July 1, 2014*):

365 (NEW) (k) Notwithstanding any provision of this chapter, the  
 366 Commissioner of Administrative Services may purchase equipment,  
 367 supplies, materials or other property or services under sections 4a-53  
 368 and 4a-66 as required to fulfill his or her responsibilities under this  
 369 chapter.

|   |                     |                  |
|---|---------------------|------------------|
| This act shall take effect as follows and shall amend the following sections: |                     |                  |
| Section 1   | <i>July 1, 2014</i> | 4b-91(a) and (b) |
| Sec. 2  | <i>July 1, 2014</i> | 4b-91(j)         |
| Sec. 3  | <i>July 1, 2014</i> | 4b-24b(a)        |
| Sec. 4  | <i>July 1, 2014</i> | 4b-52            |
| Sec. 5  | <i>July 1, 2014</i> | 4b-103           |
| Sec. 6  | <i>July 1, 2014</i> | 4b-51(d)         |
| Sec. 7  | <i>July 1, 2014</i> | 4b-91            |

**Statement of Legislative Commissioners:**

Section 1(a)(1) was rephrased for clarity and section 1(a)(3) was rephrased for internal consistency. The effective dates of sections 3 and 4 were changed to July 1, 2014 for consistency with section 1.

**GAE**      *Joint Favorable Subst.*