



General Assembly

February Session, 2014

***Raised Bill No. 454***

LCO No. 2459



Referred to Committee on GOVERNMENT ADMINISTRATION  
AND ELECTIONS

Introduced by:  
(GAE)

***AN ACT INCREASING THE TRANSPARENCY OF GENERAL BIDS  
FOR STATE CONTRACTS.***

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

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2 repealed and the following is substituted in lieu thereof (*Effective*  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

4 (b) The Commissioner of Administrative Services, the joint  
5 committee or the constituent unit, as the case may be, shall determine  
6 the manner of submission and the conditions and requirements of such  
7 bids, and the time within which the bids shall be submitted, consistent  
8 with the provisions of sections 4b-91 to 4b-96, inclusive, as amended  
9 by this act. Such award shall be made not later than ninety days after  
10 the opening of such bids. If the general bidder selected [as the general  
11 contractor] fails to perform the general [contractor's] bidder's  
12 agreement to execute a contract in accordance with the terms of the  
13 [general contractor's] bidder's general bid and furnish a performance  
14 bond and also a labor and materials or payment bond to the amount

15 specified in the general bid form, an award shall be made to the next  
16 lowest responsible and qualified general bidder. No employee of the  
17 Department of Administrative Services, the joint committee or a  
18 constituent unit with decision-making authority concerning the award  
19 of a contract and no public official, as defined in section 1-79, may  
20 communicate with any bidder prior to the award of the contract if the  
21 communication results in the bidder receiving information about the  
22 contract that is not available to other bidders, except that if the lowest  
23 responsible and qualified bidder's price submitted is in excess of funds  
24 available to make an award, the Commissioner of Administrative  
25 Services, the Joint Committee on Legislative Management or the  
26 constituent unit, as the case may be, may negotiate with such bidder  
27 and award the contract on the basis of the funds available, without  
28 change in the contract specifications, plans and other requirements. If  
29 the award of a contract on said basis is refused by such bidder, the  
30 Commissioner of Administrative Services, the Joint Committee on  
31 Legislative Management or the constituent unit, as the case may be,  
32 may negotiate with other contractors who submitted bids in ascending  
33 order of bid prices without change in the contract, specifications, plans  
34 and other requirements. In the event of negotiation with general  
35 bidders as provided in this section, the general bidder involved may  
36 negotiate with subcontractors on the same basis, provided such  
37 general bidder shall negotiate only with subcontractors named on such  
38 general bidder's general bid form.

39 Sec. 2. Section 4b-93 of the general statutes is repealed and the  
40 following is substituted in lieu thereof (*Effective October 1, 2014*):

41 (a) Every contract subject to this chapter shall include plans and  
42 specifications detailing all labor and materials to be furnished  
43 thereunder. Such specifications shall have a separate section for each  
44 [of the following classes of work] class of work for contractors  
45 established by the Department of Administrative Services for  
46 prequalification purposes under section 4a-100 if, in the estimate of the  
47 awarding authority, the class of work will exceed twenty-five

48 thousand dollars. [(1) Masonry work; (2) electrical work; (3)  
49 mechanical work other than heating, ventilating and air conditioning  
50 work; and (4) heating, ventilating and air conditioning work.] Such  
51 specifications shall also have a separate section for each other class of  
52 work for which the awarding authority deems it necessary or  
53 convenient.

54 (b) Each separate section in the specifications provided for by this  
55 section shall specify by number each sheet of plans showing work to  
56 be done by the subcontractor under such section, and shall require the  
57 subcontractor to install by the subcontractor's own work force all  
58 materials to be furnished by him under such section other than  
59 materials which, in the opinion of the awarding authority, it is not  
60 customary under current trade practices for such subcontractor to  
61 install and the installation of which is expressly required by another  
62 section of the specifications. Each class of work set forth in a separate  
63 section of the specifications pursuant to this section shall be a subtrade  
64 designated in the general bid form and shall be the matter of a  
65 subcontract made in accordance with the procedure set forth in this  
66 chapter. A subcontractor may not subcontract any portion of the work  
67 to another subcontractor unless such other subcontractor's bid price  
68 was included in the original subcontractor's bid and the original  
69 subcontractor files a copy of a fully executed subcontract with the  
70 secondary subcontractor with the awarding authority or its agent in  
71 addition to the original subcontractor's fully executed contract.

72 (c) Whenever the awarding authority has designated a separate  
73 section for a class of work, under subsection (a) of this section, the  
74 general contractor shall, when applicable, state as part of its  
75 application for partial payment that it considers the work required to  
76 be done under any such separate section to be fully completed in  
77 accordance with the terms of the contract. The awarding authority  
78 shall thereupon conduct an inspection of the work in such class, and if  
79 it finds that such work has been fully completed in accordance with  
80 the terms of the contract, it shall issue a statement certifying that such

81 work is accepted as fully completed, and shall pay the general  
82 contractor in full for such work.

83 Sec. 3. Section 4b-95 of the general statutes is repealed and the  
84 following is substituted in lieu thereof (*Effective October 1, 2014*):

85 (a) For purposes of this section, "awarding authority" includes  
86 anyone acting on behalf of or as an agent of the state agency awarding  
87 the contract. The awarding authority shall furnish to every person  
88 applying therefor a form for general bid.

89 (b) Every general bid submitted for a contract subject to this chapter  
90 shall be submitted on a form furnished by the awarding authority. The  
91 form provided by the awarding authority shall provide a place for  
92 listing the names and prices of subcontractors for the [four] classes of  
93 work [specified] referenced in subsection (a) of section 4b-93, as  
94 amended by this act, and for each other class of work included by the  
95 awarding authority pursuant to said subsection and state that: (1) The  
96 undersigned agrees that if selected as general contractor or  
97 subcontractor as defined in section 4a-100, he shall, within five days,  
98 Saturdays, Sundays and legal holidays excluded, after presentation  
99 thereof by the awarding authority, execute a contract in accordance  
100 with the terms of the general bid; (2) the undersigned agrees and  
101 warrants that he has made good faith efforts to employ minority  
102 business enterprises as subcontractors and suppliers of materials  
103 under such contract and shall provide the Commission on Human  
104 Rights and Opportunities with such information as is requested by the  
105 commission concerning his employment practices and procedures as  
106 they relate to the provisions of the general statutes governing contract  
107 requirements; and (3) the undersigned agrees that each of the  
108 subcontractors listed on the bid form will be used for the work  
109 indicated at the amount stated, unless a substitution is permitted by  
110 the awarding authority. The awarding authority may require in the bid  
111 form that the general contractor or subcontractor as defined in section  
112 4a-100 agree to perform a stated, minimum percentage of work with

113 his own forces.

114 (c) General bids shall be for the complete work as specified and shall  
115 include the names of any subcontractors for the [four] classes of work  
116 [specified] referenced in subsection (a) of section 4b-93, as amended by  
117 this act, and for each other class of work for which the awarding  
118 authority has required a separate section pursuant to said subsection  
119 and the dollar amounts of their subcontracts, and the general  
120 contractor shall be selected on the basis of such general bids. It shall be  
121 presumed that the general bidder intends to perform with its own  
122 employees all work in such [four] classes and such other classes, for  
123 which no subcontractor is named. The general bidder's qualifications  
124 for performing such work shall be subject to review under section 4b-  
125 92, as amended by this act. Every general bid which is conditional or  
126 obscure, or which contains any addition not called for, shall be invalid;  
127 and the awarding authority shall reject every such general bid. The  
128 awarding authority shall be authorized to waive minor irregularities  
129 which he considers in the best interest of the state, provided the  
130 reasons for any such waiver are stated in writing by the awarding  
131 authority and made a part of the contract file. No such general bid  
132 shall be rejected because of the failure to submit prices for, or  
133 information relating to, any item or items for which no specific space is  
134 provided in the general bid form furnished by the awarding authority,  
135 but this sentence shall not be applicable to any failure to furnish prices  
136 or information required by this section to be furnished in the form  
137 provided by the awarding authority. General bids shall be publicly  
138 opened and read by the awarding authority forthwith. The awarding  
139 authority shall not permit substitution of a subcontractor for one  
140 named in accordance with the provisions of this section or substitution  
141 of a subcontractor for any designated subtrade work bid to be  
142 performed by the general contractor's own forces, except for good  
143 cause. The term "good cause" includes but is not limited to a  
144 subcontractor's or, where appropriate, a general contractor's: (1) Death  
145 or physical disability, if the listed subcontractor is an individual; (2)

146 dissolution, if a corporation or partnership; (3) bankruptcy; (4) inability  
147 to furnish any performance and payment bond shown on the bid form;  
148 (5) inability to obtain, or loss of, a license necessary for the  
149 performance of the particular category of work; (6) failure or inability  
150 to comply with a requirement of law applicable to contractors,  
151 subcontractors, or construction, alteration, or repair projects; (7) failure  
152 to perform his agreement to execute a subcontract under section 4b-96,  
153 as amended by this act.

154 (d) The general bid price shall be the price set forth in the space  
155 provided on the general bid form. No general bid shall be rejected (1)  
156 because of error in setting forth the name of a subcontractor as long as  
157 the subcontractor or subcontractors designated are clearly identifiable,  
158 or (2) because the plans and specifications do not accompany the bid or  
159 are not submitted with the bid. Failure to correctly state a  
160 subcontractor's price shall be cause for rejection of the general bidder's  
161 bid.

162 (e) Any general contractor who violates any provision of this section  
163 shall be disqualified from bidding on other contracts that are subject to  
164 the provisions of this chapter for a period not to exceed twenty-four  
165 months, commencing from the date on which the violation is  
166 discovered, for each violation. The awarding authority shall  
167 periodically review the general contractor's subcontracts to insure  
168 compliance with such provisions, and shall after each such review  
169 prepare a written report setting forth its findings and conclusions.

170 Sec. 4. Section 4b-95a of the general statutes is repealed and the  
171 following is substituted in lieu thereof (*Effective October 1, 2014*):

172 If a general bidder customarily performs any of the [four] classes of  
173 work [specified] referenced in subsection (a) of section 4b-93, as  
174 amended by this act, or any other class of work included by the  
175 awarding authority pursuant to said subsection, the general bidder  
176 may list himself as a subcontractor together with his price in the space

177 provided in the bid form. A listed sub-bid so submitted by the general  
178 bidder shall be considered on a par with other listed sub-bids, and no  
179 such sub-bid by a general bidder shall be considered unless the general  
180 bidder can show to the satisfaction of the awarding authority, based on  
181 objective criteria established for such purpose, that he customarily  
182 performs such subtrade work and is qualified to do the character of  
183 work required by the applicable section of the specifications.

184 Sec. 5. Section 4b-96 of the general statutes is repealed and the  
185 following is substituted in lieu thereof (*Effective October 1, 2014*):

186 [Within] For purposes of this section, awarding authority includes  
187 anyone acting on behalf of or as an agent of the state agency awarding  
188 the contract. Not later than five days after being notified of the award  
189 of a general contract or construction-manager-at-risk project delivery  
190 contract with a guaranteed maximum price by the awarding authority,  
191 or, in the case of an approval of a substitute subcontractor by the  
192 awarding authority, within five days after being notified of such  
193 approval, the general bidder shall present to each listed or substitute  
194 subcontractor (1) a subcontract in the form set forth in this section, and  
195 (2) a notice of the time limit under this section for executing a  
196 subcontract. If a listed subcontractor fails within five days, Saturdays,  
197 Sundays and legal holidays excluded, after presentation of a  
198 subcontract by the general bidder selected, [as a general contractor,] to  
199 perform his agreement to execute a subcontract in the form hereinafter  
200 set forth with such general bidder, contingent upon the execution of  
201 the general contract or construction-manager-at-risk project delivery  
202 contract with a guaranteed maximum price, the general contractor or  
203 construction-manager-at-risk shall select another subcontractor, with  
204 the approval of the awarding authority. When seeking approval for a  
205 substitute subcontractor, the general bidder shall provide the  
206 awarding authority with all documents showing (A) the general  
207 bidder's proper presentation of a subcontract to the listed  
208 subcontractor, and (B) communications to or from such subcontractor  
209 after such presentation. The awarding authority shall adjust the

210 contract price to reflect the difference between the amount of the price  
211 of the new subcontractor and the amount of the price of the listed  
212 subcontractor if the new subcontractor's price is lower and may adjust  
213 such contract price if the new subcontractor's price is higher. The  
214 general bidder shall, with respect to each listed subcontractor or  
215 approved substitute subcontractor, file with the awarding authority a  
216 copy of each executed subcontract within ten days, Saturdays, Sundays  
217 and legal holidays excluded, of presentation of a subcontract to such  
218 subcontractor. The subcontract shall be in the following form:

219 **SUBCONTRACT**

220 THIS AGREEMENT made this .... of 20., by and between .... a  
221 corporation organized and existing under the laws of .... a partnership  
222 consisting of .... an individual doing business as .... hereinafter called  
223 the "Contractor" and .... a corporation organized and existing under the  
224 laws of .... a partnership consisting of .... an individual doing business  
225 as .... hereinafter called the "Subcontractor",

226 WITNESSETH that the Contractor and the Subcontractor for the  
227 considerations hereafter named, agree as follows:

228 1. The Subcontractor agrees to furnish all labor and materials  
229 required for the completion of all work specified in Section No. .... of  
230 the specifications for .... (Name of Subtrade) .... and the plans referred  
231 to therein and addenda No. ...., and .... for the (Complete title of project  
232 and the project number taken from the title page of the specifications)  
233 .... all as prepared by .... (Name of Architect or Engineer) .... for the sum  
234 of .... (\$....) and the Contractor agrees to pay the Subcontractor said  
235 sum for said work. This price includes the following alternates:

236 Supplemental No. (s) ....., ....., ....., ....., ....., ....., .....

237 (a) The Subcontractor agrees to be bound to the Contractor by the  
238 terms of the hereinbefore described plans, specifications (including all  
239 general conditions stated therein which apply to his trade) and

240 addenda No. ...., ...., ...., and ...., and ...., and to assume to the  
241 Contractor all the obligations and responsibilities that the Contractor  
242 by those documents assumes to the .... (Awarding Authority or anyone  
243 acting on behalf of or as an agent of the state agency awarding the  
244 contract) ...., hereinafter called the "Awarding Authority", except to the  
245 extent that provisions contained therein are by their terms or by law  
246 applicable only to the Contractor.

247 (b) The Contractor agrees to be bound to the Subcontractor by the  
248 terms of the hereinbefore described documents and to assume to the  
249 Subcontractor all the obligations and responsibilities that the  
250 Awarding Authority by the terms of the hereinbefore described  
251 documents assumes to the Contractor, except to the extent that  
252 provisions contained therein are by their terms or by law applicable  
253 only to the Awarding Authority.

254 2. The Contractor agrees to begin, prosecute and complete the entire  
255 work specified by the Awarding Authority in an orderly manner so  
256 that the Subcontractor will be able to begin, prosecute and complete  
257 the work described in this subcontract; and, in consideration thereof,  
258 upon notice from the Contractor, either oral or in writing, the  
259 Subcontractor agrees to begin, prosecute and complete the work  
260 described in this Subcontract in an orderly manner in accordance with  
261 completion schedules prescribed by the general contractor for each  
262 subcontract work item, based on consideration to the date or time  
263 specified by the Awarding Authority for the completion of the entire  
264 work.

265 3. The Subcontractor agrees to furnish to the Contractor, within a  
266 reasonable time after the execution of this subcontract, evidence of  
267 workers' compensation insurance as required by law and evidence of  
268 public liability and property damage insurance of the type and in  
269 limits required to be furnished to the Awarding Authority by the  
270 Contractor.

271 4. The Contractor agrees that no claim for services rendered or  
272 materials furnished by the Contractor to the Subcontractor shall be  
273 valid unless written notice thereof is given by the Contractor to the  
274 Subcontractor during the first forty (40) days following the calendar  
275 month in which the claim originated.

276 5. This agreement is contingent upon the execution of a general  
277 contract or construction-manager-at-risk project delivery contract with  
278 a guaranteed maximum price between the Contractor and the  
279 Awarding Authority for the complete work.

280 IN WITNESS WHEREOF, the parties hereto have executed this  
281 agreement the day and year first above-written.

282

SEAL

ATTEST

.... (Name of Subcontractor) ....  
By: ....

SEAL

ATTEST

.... (Name of Subcontractor) ....  
By: ....

283

284 Sec. 6. Section 4b-103 of the general statutes is repealed and the  
285 following is substituted in lieu thereof (*Effective October 1, 2014*):

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

290 (b) The Commissioner of Administrative Services shall not enter  
291 into a construction manager at-risk project delivery contract that does

292 not provide for a maximum guaranteed price for the cost of  
293 construction that shall be determined not later than the time of the  
294 receipt and approval by the commissioner of the trade contractor bids.  
295 Each construction manager at-risk shall invite bids and give notice of  
296 opportunities to bid on project elements, by advertising, at least once,  
297 in one or more newspapers having general circulation in the state.  
298 Such project elements for bidding purposes shall be determined in  
299 accordance with subsections (a) and (b) of section 4b-93, as amended  
300 by this act. Each bid shall be kept sealed until opened publicly at the  
301 time and place as set forth in the notice soliciting such bid. The  
302 construction manager at-risk shall, after consultation with and  
303 approval by the commissioner, award any related contracts for project  
304 elements to the responsible qualified contractor submitting the lowest  
305 bid in compliance with the bid requirements, provided (1) the  
306 construction manager at-risk shall not be eligible to submit a bid for  
307 any such project element, and (2) construction shall not begin prior to  
308 the determination of the maximum guaranteed price, except for the  
309 project elements of site preparation and demolition that have been  
310 previously put out to bid and awarded.

311 Sec. 7. Subsection (f) of section 31-53 of the 2014 supplement to the  
312 general statutes is repealed and the following is substituted in lieu  
313 thereof (*Effective October 1, 2014*):

314 (f) Each employer subject to the provisions of this section or section  
315 31-54 and each contracting agency shall (1) keep, maintain and  
316 preserve such records relating to the wages and hours worked by each  
317 person performing the work of any mechanic, laborer and worker and  
318 a schedule of the occupation or work classification at which each  
319 person performing the work of any mechanic, laborer or worker on the  
320 project is employed during each work day and week in such manner  
321 and form as the Labor Commissioner establishes to assure the proper  
322 payments due to such persons or employee welfare funds under this  
323 section or section 31-54, regardless of any contractual relationship  
324 alleged to exist between the contractor and such person, and (2) submit

325 monthly to the contracting agency or any agent of such contracting  
326 agency by mail, or other method accepted by such agency, a certified  
327 payroll that shall consist of a complete copy of such records  
328 accompanied by an original statement signed by the employer that  
329 indicates (A) such records are correct; (B) the rate of wages paid to  
330 each person performing the work of any mechanic, laborer or worker  
331 and the amount of payment or contributions paid or payable on behalf  
332 of each such person to any employee welfare fund, as defined in  
333 subsection (i) of this section, are not less than the prevailing rate of  
334 wages and the amount of payment or contributions paid or payable on  
335 behalf of each such person to any employee welfare fund, as  
336 determined by the Labor Commissioner pursuant to subsection (d) of  
337 this section, and not less than those required by the contract to be paid;  
338 (C) the employer or any agent of a contracting agency has complied  
339 with the provisions of this section and section 31-54; (D) each such  
340 person is covered by a workers' compensation insurance policy for the  
341 proper occupational classification for the duration of such person's  
342 employment, which shall be demonstrated by submitting to the  
343 contracting agency or the agent of the contracting agency the name of  
344 the workers' compensation insurance carrier covering each such  
345 person and each such person's occupational classification, the effective  
346 and expiration dates of each policy and each policy number; (E) the  
347 employer does not receive kickbacks, as defined in 41 USC 52, from  
348 any employee or employee welfare fund; and (F) pursuant to the  
349 provisions of section 53a-157a, the employer is aware that filing a  
350 certified payroll which the employer knows to be false is a class D  
351 felony for which the employer may be fined up to five thousand  
352 dollars, imprisoned for up to five years, or both. This subsection shall  
353 not be construed to prohibit a general contractor or any agent of a  
354 contracting agency from relying on the certification of a lower tier  
355 subcontractor, provided the general contractor or agent of a  
356 contracting agency shall not be exempted from the provisions of  
357 section 53a-157a if the general contractor or agent knowingly relies  
358 upon a subcontractor's false certification. Notwithstanding the

359 provisions of section 1-210, the certified payroll shall be considered a  
360 public record and every person shall have the right to inspect and copy  
361 such records in accordance with the provisions of section 1-212. The  
362 provisions of subsections (a) and (b) of section 31-59 and sections 31-66  
363 and 31-69 that are not inconsistent with the provisions of this section  
364 or section 31-54 apply to this section. Failing to file a certified payroll  
365 pursuant to subdivision (2) of this subsection is a class D felony for  
366 which the employer may be fined up to five thousand dollars,  
367 imprisoned for up to five years, or both.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	4b-91(b)
Sec. 2	<i>October 1, 2014</i>	4b-93
Sec. 3	<i>October 1, 2014</i>	4b-95
Sec. 4	<i>October 1, 2014</i>	4b-95a
Sec. 5	<i>October 1, 2014</i>	4b-96
Sec. 6	<i>October 1, 2014</i>	4b-103
Sec. 7	<i>October 1, 2014</i>	31-53(f)

**Statement of Purpose:**

To require the classifications of work established for prequalification purposes be set forth in a general bid, or require documentation of secondary subcontracts be submitted with the bid, to require construction-managers-at-risk to list such classifications in their bid and to require agents of the contracting agency to maintain certain documentation and be responsible for certain contractor violations.

*[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.]*