



House of Representatives

General Assembly

File No. 475

January Session, 2015

House Bill No. 6906

House of Representatives, April 7, 2015

The Committee on Government Administration and Elections reported through REP. JUTILA of the 37th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT RAISING THE THRESHOLD FOR STATE CONSTRUCTION CONTRACTS REQUIRING THE APPROVAL OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND COMPETITIVE BIDDING.

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

1 Section 1. Section 4b-52 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) (1) No repairs, alterations or additions involving expense to the
4 state of [five hundred thousand] one million dollars or less or, in the
5 case of repairs, alterations or additions to a building rented or
6 occupied by the Judicial Branch, one million two hundred fifty
7 thousand dollars or less or, in the case of repairs, alterations or
8 additions to a building rented or occupied by a constituent unit of the
9 state system of higher education, two million dollars or less, shall be
10 made to any state building or premises occupied by any state officer,
11 department, institution, board, commission or council of the state
12 government and no contract for any construction, repairs, alteration or

13 addition shall be entered into without the prior written approval of the
14 Commissioner of Administrative Services and notification to the
15 Secretary of the Office of Policy and Management, except repairs,
16 alterations or additions to a building under the supervision and
17 control of the Joint Committee on Legislative Management and repairs,
18 alterations or additions to a building under the supervision of The
19 University of Connecticut. Repairs, alterations or additions which are
20 made pursuant to such approval of the Commissioner of
21 Administrative Services shall conform to all guidelines and procedures
22 established by the Department of Administrative Services for agency-
23 administered projects. (2) Notwithstanding the provisions of
24 subdivision (1) of this subsection, repairs, alterations or additions
25 involving expense to the state of [five hundred thousand] one million
26 dollars or less may be made to any state building or premises under
27 the supervision of the Office of the Chief Court Administrator or a
28 constituent unit of the state system of higher education, under the
29 terms of section 4b-11, and any contract for any such construction,
30 repairs or alteration may be entered into by the Office of the Chief
31 Court Administrator or a constituent unit of the state system of higher
32 education without the approval of the Commissioner of
33 Administrative Services.

34 (b) Except as provided in this section, no repairs, alterations or
35 additions involving an expense to the state of more than [five hundred
36 thousand] one million dollars or, in the case of any repair, alteration or
37 addition administered by the Department of Administrative Services,
38 more than one million five hundred thousand dollars, shall be made to
39 any state building or premises occupied by any state officer,
40 department, institution, board, commission or council of the state
41 government, nor shall any contract for any construction, repairs,
42 alteration or addition be entered into, until the Commissioner of
43 Administrative Services or, in the case of the construction or repairs,
44 alterations or additions to a building under the supervision and
45 control of the Joint Committee on Legislative Management of the
46 General Assembly, said joint committee or, in the case of construction,
47 repairs, alterations or additions to a building involving expenditures in

48 excess of [five hundred thousand] one million dollars but not more
49 than one million two hundred fifty thousand dollars under the
50 supervision and control of the Judicial Branch, said Judicial Branch or,
51 in the case of the construction, repairs, alterations or additions to a
52 building involving expenditures in excess of [five hundred thousand]
53 one million dollars but not more than two million dollars under the
54 supervision and control of one of the constituent units of higher
55 education, the constituent unit, has invited bids thereon and awarded
56 a contract thereon, in accordance with the provisions of sections 4b-91
57 to 4b-96, inclusive, as amended by this act. The Commissioner of
58 Administrative Services, with the approval of the authority having the
59 supervision of state employees or the custody of inmates of state
60 institutions, without the necessity of bids, may employ such
61 employees or inmates and purchase or furnish the necessary materials
62 for the construction, erection, alteration, repair or enlargement of any
63 such state building or premises occupied by any state officer,
64 department, institution, board, commission or council of the state
65 government.

66 (c) Whenever the Commissioner of Administrative Services declares
67 that an emergency condition exists at any state facility, other than a
68 building under the supervision and control of the Joint Committee on
69 Legislative Management, and that the condition would adversely
70 affect public safety or the proper conduct of essential state government
71 operations, or said joint committee declares that such an emergency
72 exists at a building under its supervision and control, the
73 commissioner or the joint committee may employ such assistance as
74 may be required to restore facilities under their control and
75 management, or the commissioner may so act upon the request of a
76 state agency, to restore facilities under the control and management of
77 such agency, without inviting bids as required in subsection (b) of this
78 section. The commissioner shall take no action requiring the
79 expenditure of more than one million five hundred thousand dollars to
80 restore any facility under this subsection (1) without the written
81 consent of the Governor, and (2) until the commissioner has certified to
82 the Joint Committee on Legislative Management that the project is of

83 such an emergency nature that an exception to subsection (b) of this
84 section is required. Such certification shall include input from all
85 affected agencies, detail the need for the exception and include any
86 relevant documentation. The provisions of this subsection shall not
87 apply if any person is obligated under the terms of an existing contract
88 with the state to render such assistance. The annual report of the
89 commissioner shall include a detailed statement of all expenditures
90 made under this subsection.

91 (d) The Commissioner of Administrative Services may, during the
92 term of a lease of a building or premises occupied by any state offices,
93 department, institution, board, commission or council of the state
94 government, (1) renegotiate the lease in order to enable the lessor to
95 make necessary alterations or additions up to a maximum amount of
96 five hundred thousand dollars, subject to the approval of the State
97 Properties Review Board, or (2) require that a security audit be
98 conducted for such building or premises and, if necessary, renegotiate
99 the lease in order to enable the lessor to make necessary alterations or
100 additions to bring the building or premises into compliance with the
101 security standards for state agencies established under section 4b-132.
102 Alterations or additions under subdivision (2) of this subsection shall
103 not be subject to the spending limit in subdivision (1) of this
104 subsection, and a renegotiated lease under said subdivision (2) shall be
105 subject to the approval of the State Properties Review Board, provided
106 such approval requirement shall not compromise the security
107 requirements of chapter 60a and this section. The commissioner shall
108 determine the manner of submission, conditions and requirements of
109 bids and awards made for alterations or additions under this
110 subsection. No lease shall be renegotiated under this subsection for a
111 term less than five years. As used in this subsection, "security" and
112 "security audit" have the meanings assigned to such terms in section
113 4b-130.

114 Sec. 2. Subsection (a) of section 4b-91 of the general statutes is
115 repealed and the following is substituted in lieu thereof (*Effective from*
116 *passage*):

117 (a) (1) As used in this section, "prequalification classification" means
118 the prequalification classifications established by the Commissioner of
119 Administrative Services pursuant to section 4a-100, "public agency"
120 has the same meaning as provided in section 1-200 and "awarding
121 authority" means the Department of Administrative Services, except
122 "awarding authority" means (A) the Joint Committee on Legislative
123 Management, in the case of a contract for the construction of or work
124 on a building or other public work under the supervision and control
125 of the joint committee, or (B) the constituent unit of the state system of
126 higher education, in the case of a contract for the construction of or
127 work on a building or other public work under the supervision and
128 control of such constituent unit.

129 (2) Except as provided in subdivision (3) of this subsection, every
130 contract for the construction, reconstruction, alteration, remodeling,
131 repair or demolition of any public building or any other public work
132 by the state that is estimated to cost more than five hundred thousand
133 dollars shall be awarded to a contractor who is prequalified pursuant
134 to section 4a-100 and, in addition, any such contract that is estimated
135 to cost more than one million dollars shall be awarded to the lowest
136 responsible and qualified general bidder [who is prequalified pursuant
137 to section 4a-100] on the basis of competitive bids in accordance with
138 the procedures set forth in this chapter, after the awarding authority
139 has invited such bids by posting notice on the State Contracting Portal.
140 The awarding authority shall indicate the prequalification
141 classification required for the contract in such notice.

142 (3) The requirements set forth in subdivision (2) of this subsection
143 shall not apply to (A) a public highway or bridge project or any other
144 construction project administered by the Department of
145 Transportation, or (B) a contract awarded by the Commissioner of
146 Administrative Services for (i) any public building or other public
147 works project administered by the Department of Administrative
148 Services that is estimated to cost one million five hundred thousand
149 dollars or less, (ii) a community court project, as defined in subsection
150 (j) of section 4b-55, (iii) the downtown Hartford higher education

151 center project, as defined in subsection (l) of section 4b-55, (iv) a
152 correctional facility project, as defined in subsection (m) of section 4b-
153 55, (v) a juvenile detention center project, as defined in subsection (n)
154 of section 4b-55, or (vi) a student residential facility for the Connecticut
155 State University System that is a priority higher education facility
156 project, as defined in subsection (f) of section 4b-55.

157 (4) Every contract for the construction, reconstruction, alteration,
158 remodeling, repair or demolition of any public building or any other
159 public work by a public agency that is paid for, in whole or in part,
160 with state funds and that is estimated to cost more than [five hundred
161 thousand] one million dollars shall be awarded to a bidder [that is
162 prequalified pursuant to section 4a-100] after the public agency has
163 invited such bids by posting notice on the State Contracting Portal,
164 except for (A) a public highway or bridge project or any other
165 construction project administered by the Department of
166 Transportation, or (B) any public building or other public works
167 project administered by the Department of Administrative Services
168 that is estimated to cost one million five hundred thousand dollars or
169 less. Any such contract that is estimated to cost more than five
170 hundred thousand dollars shall be awarded to a contractor that is
171 prequalified pursuant to section 4a-100. The awarding authority or
172 public agency, as the case may be, shall indicate the prequalification
173 classification required for the contract in such notice.

174 (5) (A) The Commissioner of Administrative Services may select
175 contractors to be on lists established for the purpose of providing
176 contractor services for the construction, reconstruction, alteration,
177 remodeling, repair or demolition of any public building or other public
178 works project administered by the Department of Administrative
179 Services involving an expense to the state of one million five hundred
180 thousand dollars or less. The commissioner shall use the
181 prequalification classifications established pursuant to section 4a-100
182 to determine the specific categories of services that contractors may
183 perform after being selected in accordance with this subparagraph and
184 subparagraph (B) of this subdivision and awarded a contract in

185 accordance with subparagraph (C) of this subdivision. The
186 commissioner may establish a separate list for projects involving an
187 expense to the state of less than five hundred thousand dollars for the
188 purpose of selecting and utilizing the services of small contractors and
189 minority business enterprises, as such terms are defined in section 4a-
190 60g.

191 (B) The commissioner shall invite contractors to submit
192 qualifications for each specific category of services sought by the
193 department by posting notice of such invitation on the State
194 Contracting Portal. The notice shall be in the form determined by the
195 commissioner, and shall set forth the information that a contractor is
196 required to submit to be considered for selection. Upon receipt of the
197 submittal from the contractor, the commissioner shall select, for each
198 specified category, those contractors who (i) are determined to be the
199 most responsible and qualified, as such terms are defined in section 4b-
200 92, to perform the work required under the specified category, (ii) have
201 demonstrated the skill, ability and integrity to fulfill contract
202 obligations considering their past performance, financial responsibility
203 and experience with projects of the size, scope and complexity
204 required by the state under the specified category, and (iii) for projects
205 with a cost exceeding five hundred thousand dollars, have the ability
206 to obtain the requisite bonding. The commissioner shall establish the
207 duration that each list remains in effect, which in no event may exceed
208 three years.

209 (C) For any public building or public works project involving an
210 expense to the state of one million five hundred thousand dollars or
211 less, the commissioner shall invite bids from only those contractors
212 selected pursuant to subparagraphs (A) and (B) of this subdivision for
213 the specific category of services required for the particular project. The
214 commissioner shall determine the form of bid invitation, the manner
215 of, and time for, submission of bids, and the conditions and
216 requirements of such bids. The contract shall be awarded to the lowest
217 responsible and qualified bidder, subject to the provisions of sections
218 4b-92 and 4b-94. In the event that fewer than three bids are received in

219 response to an invitation to bid under this subdivision, or that all the
220 bids are in excess of the amount of available funds for the project, the
221 commissioner may negotiate a contract with any of the contractors
222 submitting a bid, or reject the bids received and rebid the project in
223 accordance with this section.

224 Sec. 3. Subsection (b) of section 4b-51 of the general statutes is
225 repealed and the following is substituted in lieu thereof (*Effective from*
226 *passage*):

227 (b) No officer, department, institution, board, commission or council
228 of the state government, except the Commissioner of Administrative
229 Services, the Commissioner of Transportation, the Connecticut
230 Marketing Authority, the Department of Agriculture for purposes of
231 the program established pursuant to section 26-237a, the Joint
232 Committee on Legislative Management, the Judicial Branch or a
233 constituent unit of the state system of higher education as authorized
234 in subsection (a) of this section, shall, unless otherwise specifically
235 authorized by law, make or contract for the making of any alteration,
236 repair or addition to any real asset involving an expenditure of more
237 than [five hundred thousand] one million dollars.

238 Sec. 4. Section 4e-42 of the general statutes is repealed and the
239 following is substituted in lieu thereof (*Effective from passage*):

240 Not later than June 1, 2010, the State Contracting Standards Board
241 shall adopt regulations, in accordance with the provisions of chapter
242 54, that require bid security for all competitive sealed bidding for
243 construction contracts in a design-bid-build procurement when the
244 price is estimated by the state contracting agency to exceed [five
245 hundred thousand] one million dollars.

246 Sec. 5. Subdivision (2) of subsection (c) of section 10a-109n of the
247 general statutes is repealed and the following is substituted in lieu
248 thereof (*Effective from passage*):

249 (2) (A) Except as provided in subparagraph (B) of this subdivision,

250 any total cost basis contract or other contract for the construction of a
251 university project which is estimated to cost more than five hundred
252 thousand dollars [.] shall be awarded to a contractor that is
253 prequalified pursuant to section 4a-100 and any such contract which is
254 estimated to cost more than one million dollars shall be publicly let by
255 the university. The university shall give notice to contractors interested
256 in prequalifying to submit a project proposal or bid, by advertising, at
257 least once, in one or more newspapers having general circulation in the
258 state and by posting the advertisement on the university web site. The
259 notice to prequalify shall contain the requirement that contractors be
260 prequalified pursuant to section 4a-100, a statement of the time and
261 place where the responses shall be received and such additional
262 information as the university deems appropriate. Upon receipt of such
263 responses, the university shall select each contractor who has been
264 prequalified pursuant to section 4a-100 and has shown itself able to
265 post surety bonds required by such contract and has demonstrated
266 that it possesses the financial, managerial and technical ability and the
267 integrity necessary and without conflict of interest for faithful and
268 efficient performance of the work provided for therein. The university
269 shall evaluate whether each such contractor is responsible and
270 qualified based on its experience with projects similar to that for which
271 the bid or proposal is to be submitted and based on objective written
272 criteria included in the application to request prequalification with
273 respect to such contract. The university shall also consider whether a
274 contractor, and any subcontractor on the contractor's previous projects,
275 has been in compliance with the provisions of part III of chapter 557
276 and chapter 558 during the previous five calendar years.

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

284 Sec. 6. Section 13b-20n of the general statutes is repealed and the
 285 following is substituted in lieu thereof (*Effective from passage*):

286 With respect to any contract for the construction, reconstruction,
 287 alteration, remodeling, repair or demolition of any public building
 288 under the supervision and control of the Commissioner of
 289 Transportation which contract is estimated to cost more than [five
 290 hundred thousand] one million dollars and is not subject to section 4b-
 291 51, as amended by this act, the Commissioner of Transportation shall
 292 award the contract to the lowest responsible and qualified bidder, as
 293 defined in section 4b-92, in accordance with regulations which the
 294 commissioner shall adopt, in accordance with chapter 54. Such
 295 regulations shall establish, at a minimum: (1) Standards for the
 296 advertisement of opportunities to bid, (2) objective criteria for
 297 evaluating the qualifications of bidders, (3) the procedures for
 298 evaluating bids after the prequalification status of a bidder has been
 299 verified, and (4) award panels for the purpose of screening submitted
 300 proposals, interviewing bidders and making recommendations to the
 301 commissioner. Any contract that is subject to section 4b-51, as
 302 amended by this act, shall be awarded by the Commissioner of
 303 Administrative Services in accordance with chapter 60.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4b-52
Sec. 2	<i>from passage</i>	4b-91(a)
Sec. 3	<i>from passage</i>	4b-51(b)
Sec. 4	<i>from passage</i>	4e-42
Sec. 5	<i>from passage</i>	10a-109n(c)(2)
Sec. 6	<i>from passage</i>	13b-20n

GAE *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill would raise the project threshold for certain state agencies served by the Department of Administrative Service's (DAS) Construction Services division from \$500,000 to \$1 million. Currently, most state agencies are permitted to contract for and administer their own construction projects if the project cost is less than \$500,000.

DAS annually administers an estimated 6 to 8 projects which cost less than \$1 million (termed "minor capitol projects"). Under the bill, it is estimated that DAS would realize a small reduction in the number of projects it administers. This reduction is not anticipated to result in an administrative or personnel savings to DAS as minor capital projects represent a small fraction of the Construction Services division's work product.

The Out Years

State Impact: None

Municipal Impact: None

Sources: Department of Administrative Services

OLR Bill Analysis**HB 6906*****AN ACT RAISING THE THRESHOLD FOR STATE CONSTRUCTION CONTRACTS REQUIRING THE APPROVAL OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND COMPETITIVE BIDDING.*****SUMMARY:**

This bill increases, from \$500,000 to \$1 million, the maximum that most Executive Branch state agencies can spend to alter, repair, or make additions to public buildings (i.e., capital improvements). It maintains the requirement that these agencies receive approval from the Department of Administrative Services (DAS) before beginning capital improvements (see BACKGROUND) but requires that the (1) approval be in writing and (2) agencies also notify the Office of Policy and Management (OPM) secretary.

The bill also increases, from \$500,000 to \$1 million, the maximum that the Judicial Branch and Board of Regents for Higher Education (BOR) can spend on capital improvements without DAS approval. Under the bill, the requirements for DAS written approval and OPM notification apply to capital improvements by the Judicial Branch and BOR exceeding \$1 million.

Additionally, the bill increases, from \$500,000 to \$1 million, the maximum that state agencies can spend on capital improvements without triggering competitive bidding requirements. The bill maintains the requirement that contracts for capital expenditures that exceed \$500,000 (other than DOT projects and DAS projects costing \$1.5 million or less) be awarded to a contractor who is prequalified by DAS.

The increased competitive bidding threshold applies to the Judicial

Branch, UConn, BOR, the Department of Transportation (DOT), the Joint Committee on Legislative Management (Legislative Management), and Executive Branch agencies other than DAS. By law, DAS may administer projects of up to \$1.5 million without competitive bidding.

The bill also requires the State Contracting Standards Board to adopt regulations requiring bid security for design-bid-build contracts estimated to exceed \$1 million, rather than \$500,000. Lastly, it makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

BACKGROUND

State Construction Contracts

Under current law, with some exceptions, the DAS commissioner is responsible for capital improvements to state buildings that house Executive Branch agencies or offices, except that agencies can contract to spend and spend up to \$500,000 to repair, alter, or make additions to buildings if they get the DAS commissioner's approval.

The commissioner also administers improvements to buildings that the Judicial Branch and BOR occupy, except that (1) the Judicial Branch can administer projects costing \$1.25 million or less and (2) BOR can administer projects costing \$2 million or less. UConn, DOT, and Legislative Management each have independent authority to contract for capital expenditures.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 15 Nay 0 (03/19/2015)