



Senate Bill 439

An Act Concerning the State Contracting Standards Board and Requirements for Privatization Contracts

Thank you for giving the University of Connecticut the opportunity to provide testimony on Senate Bill 439. The University is not in support of this bill.

Among other things, this bill expands definitions in the Contracting Standards Board (the "Board") statutes to make more contracts and entities subject to oversight by the Board, and significantly increases paperwork and other administrative processes on state contracting agencies, higher education institutions, and quasi-public agencies.

The University respectfully submits that this bill runs contrary to all the efforts currently being required by the Governor and this Legislature to ensure that agencies, including the institutions of higher education, manage our operations in a more lean, efficient and cost-effective manner.

Most of the functions and oversight currently vested with the Board are redundant to functions and oversight exercised by leadership at contracting agencies and institutions, the Office of Policy & Management and the Department of Administrative Services (as central state agencies with oversight authority over other agencies), the Auditors of Public Accounts, the Office of the Attorney General, and other offices. Senate Bill 439 adds to this current framework additional unnecessary paperwork and forms to be completed, and new mandatory reviews by other state agencies and by state unions. Furthermore, the requirement that State agencies and institutions evaluate "privatization contracts" was just recently increased substantially and significantly in 2014. This proposal to add even more layers of bureaucracy and redundancy are the very things that create inefficiencies, increase the State's costs of doing business, and burden the companies with which we do business.

For the University, passage of this bill will negatively impact our ability to fulfill our core mission of delivering high quality, cost-effective services to our students, researchers and patients in a timely manner.

Existing Oversight / Control

Contracts referred to in SB 439 are already subject to the following oversight and control:

- Senior leadership is responsible for budget management, including identifying ways to address state funding cuts – and for UConn Health, responding to evolving health insurance market conditions and changes in reimbursement rates.
- Procurement and contracting are handled by professional staff, who report up to the Chief Financial Officer for financial oversight and control.
- All State agencies – including the University – follow detailed statutory mandates when bidding, negotiating and awarding all procurement contracts, whether for goods or services (including construction).
- Contract signature authority is governed by contract value to ensure that higher-value contracts are approved by individuals with appropriate responsibility and authority within the university.
- The Office of the Attorney General reviews and approves all contracts valued at \$25,000 or more.
- At the University, the Board of Directors/Board of Trustees are notified of all contracts valued at \$500,000 or more.
- At the University, the Board of Directors/Board of Trustees must approve all contracts valued at \$1 million or more.
- The University is audited internally by the University’s Office of Audit, Compliance and Ethics.
- UConn and UConn Health are separately audited by the State Auditors of Public Accounts, which publishes reports of its findings.
- UConn Health’s clinical operations are also audited annually by a private third-party auditor, which reviews financials, including payroll and procurements/contracts.
- In addition, for UConn 2000 construction (which includes both UConn and UConn Health projects), a private third-party auditor audits the University annually to ensure that sure we are following internal financial and process controls and managing the program correctly.

SB 439 Promotes Inefficiencies & Incurs Cost

SB 439 would add a number of additional requirements that would negatively impact the University’s ability to provide high-quality education, conduct groundbreaking research and provide first-rate patient care in the most efficient and cost-effective manner. Among other things, the bill:

- Adds new requirements to agencies' procurement processes, which will result in months' long delays to procuring goods and services.
- Requires that agencies notify the union prior to entering into certain contracts – and complete highly-detailed and time-consuming “cost benefit” and “business case” analyses and forms -- and give the union the opportunity to meet and offer to provide services in lieu of a third party.
 - To demonstrate to the Committee the immense amount of work associated with these analyses and forms, please see Exhibit A (the Contracting Standards Board statutes that outline the requirements/processes for the analyses) and Exhibit B (links to the templates that are required to be used for the analyses), attached at the end of this testimony.
- Adds additional AG's office review over contracts.
 - This provision directly conflicts with policy established by the Office of the Attorney General that requires AG review of contracts valued at \$25,000 or more, and seeks the expanded use of pre-approved contract templates that do not require AG review.

These additional steps add an enormous amount of time, effort, and cost to State procurement, and do not add value, all with limited staffing in this area.

Considerations Unique to the University

When the State Contracting Standards Board was created, UConn and other constituent units of higher education were specifically exempted from a number of the Act's requirements because the Legislature acknowledged that higher education has unique needs. As the Committee considers this bill, the University respectfully requests that it recognize these unique needs and circumstances. Higher education exists in a market environment, which distinguishes us from other State agencies. All of our “customers” – students, patients and faculty – select UConn for their education, clinical services or as the place to teach and conduct research. Over the past decade, the University has achieved remarkable success in our marketplaces, in large part due to the Governor's and the General Assembly's decision to delegate operational decision-making to the University.

UConn and UConn Health, for example, provide services in a highly competitive marketplace where our customers pay for services and have high expectations for the quality and timeliness of products and services they purchase. Both campuses are 24/7/365 operations. It is critical we foster and maintain environments of excellence

that are essential to recruiting and retaining highly skilled teaching and research professionals, preferably with national and international reputations in their specialty.

Unlike other State agencies, which rely on State appropriated funding for nearly 100% support, the University relies upon customer-generated revenues for significant portions of its support. In fact, **non**-State funds comprise 70% of the Storrs-based budget and 77% of UConn Health's budget. As the financial support to the University is reduced, it is even more critical that we have the ability to compete and to grow other revenue sources.

The University takes seriously its responsibility to obtain the best value whenever we are purchasing goods or services. We follow all State and Federal laws relating to procurement. To remain competitive in our marketplaces, and to ensure that we are effectively and efficiently providing our core services and meeting the needs of our students and patients, however, we respectfully submit that procurement processes should not be overly burdensome or bureaucratic.

Thank you again for providing the University with the opportunity to provide testimony.

EXHIBIT A

Contracting Standards Board Cost Benefit Analysis and Business Case Requirements

Conn. Gen. Stat. § 4e-16

This is the cost-benefit analysis and business case process currently required of state contracting agencies – including institutions of higher education – by Conn. Gen. Stat. § 4e-16, subsections (b) through (d):

(b) The cost-benefit analysis conducted by a state contracting agency prior to entering into a privatization contract shall document the direct and indirect costs, savings, and qualitative and quantitative benefits, that will result from the implementation of such privatization contract. Such cost-benefit analysis shall specify the schedule that, at a minimum, shall be adhered to in order to achieve any estimated savings. Any cost factor shall be clearly identified in such cost-benefit analysis and supported by all applicable records and reports. The department head of such state contracting agency shall certify that, based on the data and information, all projected costs, savings and benefits are valid and achievable. As used in this subsection, (1) “costs” means all reasonable, relevant and verifiable expenses, including salary, materials, supplies, services, equipment, capital depreciation, rent, maintenance, repairs, utilities, insurance, travel, overhead, interim and final payments and the normal cost of fringe benefits, as calculated by the Comptroller; (2) “normal cost of fringe benefits” means the amount of contributions required to fund the fringe benefits allocated to the current year of service; and (3) “savings” means the difference between the current annual direct and indirect costs of providing such service and the projected, annual direct and indirect costs of contracting to provide such services in any succeeding state fiscal year during the term of such proposed privatization contract.

(c) (1) If such cost-benefit analysis identifies a cost savings to the state of ten per cent or more, and such privatization contract will not diminish the quality of such service, the state contracting agency shall develop a business case, in accordance with the provisions of subsection (d) of this section, in order to evaluate the feasibility of entering into any such contract and to identify the potential results, effectiveness and efficiency of such contract.

(2) If such cost-benefit analysis identifies a cost savings of less than ten per cent to the state and such privatization contract will not diminish the quality of such service, the state contracting agency may develop a business case, in accordance with the provisions of subsection (d) of this section, in order to evaluate the feasibility of

entering into any such contract and to identify the potential results, effectiveness and efficiency of such contract, provided there is a significant public policy reason to enter into such privatization contract. Any such business case shall be approved in accordance with the provisions of subdivision (4) of subsection (h) of this section.

(3) If any such proposed privatization contract would result in the layoff, transfer or reassignment of one hundred or more state agency employees, after consulting with the potentially affected bargaining units, if any, the state contracting agency shall notify the state employees of such bargaining unit, after such cost-benefit analysis is completed. Such state contracting agency shall provide an opportunity for said employees to reduce the costs of conducting the operations to be privatized and provide reasonable resources for the purpose of encouraging and assisting such state employees to organize and submit a bid to provide the services that are the subject of the potential privatization contract. The state contracting agency shall retain sole discretion in determining whether to proceed with the privatization contract, provided the business case for such contract is approved by the board.

(d) Any business case developed by a state contracting agency for the purpose of complying with subsection (c) of this section shall include: (1) The cost-benefit analysis as described in subsection (b) of this section, (2) a detailed description of the service or activity that is the subject of such business case, (3) a description and analysis of the state contracting agency's current performance of such service or activity, (4) the goals to be achieved through the proposed privatization contract and the rationale for such goals, (5) a description of available options for achieving such goals, (6) an analysis of the advantages and disadvantages of each option, including, at a minimum, potential performance improvements and risks attendant to termination of the contract or rescission of such contract, (7) a description of the current market for the services or activities that are the subject of such business case, (8) an analysis of the quality of services as gauged by standardized measures and key performance requirements including compensation, turnover, and staffing ratios, (9) a description of the specific results-based performance standards that shall, at a minimum be met, to ensure adequate performance by any party performing such service or activity, (10) the projected time frame for key events from the beginning of the procurement process through the expiration of a contract, if applicable, (11) a specific and feasible contingency plan that addresses contractor nonperformance and a description of the tasks involved in and costs required for implementation of such plan, and (12) a transition plan, if appropriate, for addressing changes in the number of agency personnel, affected business processes, employee transition issues, and communications with affected stakeholders, such as agency clients and members of the public, if applicable. Such transition plan shall contain a reemployment and retraining assistance plan for employees who are not retained by the state or employed by the contractor. If the primary purpose of the proposed privatization contract is to provide a core governmental function, such business case shall also include information sufficient to rebut the presumption that such core governmental

function should not be privatized. Such presumption shall not be construed to prohibit a state contracting agency from contracting for specialized technical expertise not available within such agency, provided such agency shall retain responsibility for such core governmental function. For the purposes of this section, "core governmental function" means a function for which the primary purpose is (A) the inspection for adherence to health and safety standards because public health or safety may be jeopardized if such inspection is not done or is not done in a timely or proper manner, (B) the establishment of statutory, regulatory or contractual standards to which a regulated person, entity or state contractor shall be held, (C) the enforcement of statutory, regulatory or contractual requirements governing public health or safety, or (D) criminal or civil law enforcement. If any part of such business case is based upon evidence that the state contracting agency is not sufficiently staffed to provide the core governmental function required by the privatization contract, the state contracting agency shall also include within such business case a plan for remediation of the understaffing to allow such services to be provided directly by the state contracting agency in the future.

EXHIBIT B

Cost Benefit Analysis, Business Case and Evaluation Forms

The Contracting Standards Board statutes require that detailed evaluations be completed on templates provided by OPM. These templates are multiple-page Excel spreadsheets that can be viewed by clicking on the following links:

- [Template 1 - Cost Benefit Analysis for a Proposal to Contract Out New Service or Service Currently Provided by State Employees](#)
- [Template 2 - Cost Benefit Analysis for In-House Delivery of Service Currently Contracted Out](#)
- [Revised January 2016 - Cost Effectiveness Evaluation Template - Protected Workbook](#)