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## **OLR Bill Analysis**

### **sSB 1081**

#### ***AN ACT CONCERNING MUNICIPAL SET-ASIDE REQUIREMENTS.***

#### **SUMMARY**

This bill limits the municipal public works contracts subject to state contract compliance requirements, including nondiscrimination, affirmative action, and set-aside requirements.

Under current law, contractors awarded state-funded municipal public works contracts must comply with specified nondiscrimination and affirmative action filing requirements. Such contractors must also comply with set-aside requirements if the total contract value exceeds \$50,000. For contracts entered into on or after October 1, 2019, the bill limits the application of each of these requirements to municipal public works contracts financed with more than \$500,000 of state funding.

Current law exempts alliance district projects from these requirements if they were financed by \$50,000 or less of state financial assistance. The bill makes a conforming change by eliminating this exemption. (Alliance districts are the 30 school districts in the state with the lowest district performance index scores, which is a weighted measure of student mastery test scores by district).

By law, municipalities may not enter into a municipal public works contract with any bidder or prospective contractor that does not comply with the (1) law's nondiscrimination and affirmative action requirements or (2) municipality's own contract compliance program approved by the Commission on Human Rights and Opportunities (CHRO). Contractors that violate the law's nondiscrimination and affirmative action requirements are subject to CHRO's enforcement authority.

EFFECTIVE DATE: October 1, 2019

## **MUNICIPAL PUBLIC WORKS CONTRACT SET-ASIDES**

### ***Set-Aside Requirements***

By law, contractors who are awarded certain state-funded municipal public works contracts must, on the basis of competitive bidding procedures, (1) set aside at least 25% of the contract's state funded amount for certified small contractors and (2) reserve 25% of the set-aside value (6.25% of the total) for minority business enterprises (MBEs)(see BACKGROUND).

Under current law, the set-aside requirement applies to municipal public works contracts that are valued at more than \$50,000 and receive any amount of state funding. For agreements entered into beginning October 1, 2019, the bill limits these requirements to contracts that are financed with more than \$500,000 of state funding.

By law, a "municipal public works contract" is the portion of an agreement, financed with state funding, between a municipality and any individual, firm, or corporation for constructing, rehabilitating, converting, extending, demolishing, or repairing a public building or highway, or other changes or improvements to real property. State funding may include matching expenditures, grants, loans, insurance, or guarantees.

### ***Municipal Notice of Set-Aside Requirements***

The bill similarly limits, to contracts financed with more than \$500,000 in state funding, the requirement that municipalities must state in their solicitation notices for competitive bids or requests for proposals or qualifications that the contractor must comply with the above set-aside requirements and the law's nondiscrimination and affirmative action requirements (see below).

As under existing law, the set-aside requirements do not apply to municipalities that have set-aside programs under which the MBE set-aside equals or exceeds 6.25%.

## **NONDISCRIMINATION REQUIREMENTS**

Under current law, contractors who are awarded municipal public

works contracts must comply with specified nondiscrimination requirements, regardless of the contract's value. The bill limits the contractors who must comply with these requirements to contractors awarded municipal public works contracts financed with more than \$500,000 of state funding.

These requirements require contractors to, among other things:

1. file with CHRO a representation or documentation that they comply with state anti-discrimination laws (the requirements vary depending on whether the contract is valued at more or less than \$50,000 per year),
2. state in their job advertisements that they are "affirmative action-equal opportunity employers,"
3. comply with nondiscrimination and affirmative action requirements and orders issued by CHRO,
4. provide CHRO with access to certain employment practice records, and
5. agree and warrant that they will make good faith efforts to employ MBEs as subcontractors and materials suppliers.

### **AFFIRMATIVE ACTION FILINGS**

Two provisions under current law require contractors that bid on, or are awarded, municipal public works contracts to file an affirmative action plan with CHRO. The first provision applies to successful bidders for municipal public works contracts valued at \$500,000 or more and paid for in whole or in part with state funds (CGS § 46a-68d). Such bidders (1) must file with and obtain CHRO's approval for an affirmative action plan before the contract is awarded and (2) are subject to a 2% retainage of the total contract price per month until CHRO approves the plan.

The second provision applies to contractors that have 50 or more employees and are awarded a municipal public works contract valued

at more than \$50,000, but are not subject to the above filing requirement (CGS § 46a-68c). By law, such contractors must still file an affirmative action plan with CHRO, but the plan does not need to be filed before the contract is awarded.

The bill limits the contractors subject to these requirements to contractors who are awarded municipal public works contracts financed with at least \$500,000 of state funding. Although the bill retains references to municipal public works contracts in CGS § 46a-68c, it appears that no such contracts meet that provision's criteria.

## **BACKGROUND**

### ***Small Contractors and Minority Business Enterprises***

By law, a "certified small contractor" is a business that (1) maintains its principal place of business in Connecticut, (2) had gross revenues of \$15 million or less during its most recent fiscal year, and (3) is independent.

MBEs are small contractors owned by women, minorities, or people with disabilities. The owner must have managerial and technical experience directly related to his or her principal business activities.

## **COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable

Yea 13    Nay 9    (03/25/2019)