



General Assembly

January Session, 2019

Committee Bill No. 5418

LCO No. 5390



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE
CONTRACTING STANDARDS BOARD.***

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

1 Section 1. Section 4-215 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) Each personal service agreement executed on or after July 1,
4 1994, and having a cost of more than twenty thousand dollars but not
5 more than fifty thousand dollars and a term of not more than one year
6 shall be based on competitive negotiation or competitive quotations,
7 unless the state agency purchasing the personal services determines
8 that a sole source purchase is required and applies to the [secretary]
9 State Contracting Standards Board for a waiver from such requirement
10 and the [secretary] board grants the waiver. [Not later than March 1,
11 1994, the secretary shall] The State Contracting Standards Board may
12 adopt guidelines for determining the types of services that may qualify
13 for such waivers. The qualifying services shall [include, but not] be
14 limited to, (1) services for which the cost to the state of a competitive
15 selection procedure would outweigh the benefits of such procedure, as

16 documented by the state agency, (2) proprietary services, (3) services
17 to be provided by a contractor mandated by the general statutes or a
18 public or special act, and (4) emergency services, including services
19 needed for the protection of life or health. The State Contracting
20 Standards Board shall post any requests for a waiver received under
21 this section on the State Contracting Portal.

22 (b) The [secretary] board shall immediately notify the Auditors of
23 Public Accounts of any application that the [secretary] board receives
24 for approval of a sole source purchase of audit services and give the
25 auditors the opportunity to review the application to advise the
26 [secretary] board as to whether such services are necessary and, if so,
27 whether such services could be provided by said auditors.

28 Sec. 2. Section 4-216 of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective October 1, 2019*):

30 (a) No state agency may execute a personal service agreement
31 having a cost of more than fifty thousand dollars or a term of more
32 than one year, without the approval of the secretary. A state agency
33 may apply for an approval by submitting the following information to
34 the secretary: (1) A description of the services to be purchased and the
35 need for such services; (2) an estimate of the cost of the services and
36 the term of the agreement; (3) whether the services are to be on-going;
37 (4) whether the state agency has contracted out for such services
38 during the preceding two years and, if so, the name of the contractor,
39 term of the agreement with such contractor and the amount paid to the
40 contractor; (5) whether any other state agency has the resources to
41 provide the services; (6) whether the agency intends to purchase the
42 services by competitive negotiation and, if not, why; and (7) whether it
43 is possible to purchase the services on a cooperative basis with other
44 state agencies. The secretary shall approve or disapprove an
45 application within fifteen business days after receiving it and any
46 necessary supporting information, provided if the secretary does not
47 act within such fifteen-day period the application shall be deemed to

48 have been approved. The secretary shall immediately notify (A) the
49 Auditors of Public Accounts of any application which the secretary
50 receives for approval of a personal services agreement for audit
51 services and give said auditors an opportunity to review the
52 application during such fifteen-day period and advise the secretary as
53 to whether such audit services are necessary and, if so, could be
54 provided by said auditors, and (B) the State Contracting Standards
55 Board of any application which the secretary receives for approval of a
56 personal services agreement where the agency does not intend to
57 purchase the services by competitive negotiation.

58 (b) Each personal service agreement having a cost of more than fifty
59 thousand dollars or a term of more than one year shall be based on
60 competitive negotiation or competitive quotations, unless the state
61 agency purchasing the personal services applies to the [secretary] State
62 Contracting Standards Board for a waiver from such requirement and
63 the [secretary] board grants the waiver in accordance with [the] any
64 guidelines adopted under section 4-215, as amended by this act.

65 (c) The secretary may establish an incentive program for nonprofit
66 providers of human services whose contracts with the state do not
67 exceed one million dollars and who provide direct services to not more
68 than one hundred fifty persons enrolled in state-funded assistance
69 programs in specific geographical regions of the state. The incentive
70 program may (1) allow providers who otherwise meet contractual
71 requirements to retain a percentage of any savings realized by the
72 providers from the contracted cost for services, (2) require that at least
73 fifty per cent of savings retained by the providers be used to expand
74 such services, and (3) provide that future contracted amounts from the
75 state for the same types of services are not reduced solely to reflect
76 savings achieved in previous contracts by such providers. For
77 purposes of this subsection, "state-funded assistance programs"
78 includes, but is not limited to, services provided to persons with
79 intellectual, physical or mental disabilities or autism spectrum
80 disorder.

81 Sec. 3. Subsection (a) of section 4e-36 of the general statutes is
82 repealed and the following is substituted in lieu thereof (*Effective*
83 *October 1, 2019*):

84 (a) Any bidder or proposer on a state contract may contest the
85 solicitation or award of a contract, including a contract awarded after
86 the granting of any waiver from competitive bidding under section 4-
87 215 or 4-216, as amended by this act, to a subcommittee of the State
88 Contracting Standards Board which shall be appointed by the
89 chairperson of the board and consist of three members, at least one of
90 whom shall be a legislative appointee. Such contest shall be submitted,
91 in writing, not later than fourteen days after such bidder or proposer
92 knew or should have known of the facts giving rise to such contest and
93 shall be limited to the procedural elements of the solicitation or award
94 process, or claims of an unauthorized or unwarranted, noncompetitive
95 selection process.

96 Sec. 4. Subdivision (28) of section 4e-1 of the general statutes is
97 repealed and the following is substituted in lieu thereof (*Effective*
98 *October 1, 2019*):

99 (28) "State contracting agency" means any executive, legislative and
100 judicial branch agency, board, commission, department, office,
101 institution or council, [, "State contracting agency" does not include the
102 judicial branch, the legislative branch,] including the offices of the
103 Secretary of the State, the State Comptroller, the Attorney General, the
104 State Treasurer [, with respect to their constitutional functions, any
105 state agency with respect to contracts specific to the constitutional and
106 statutory functions of the office of the State Treasurer. For the purposes
107 of section 4e-16, "state contracting agency" includes] and any
108 constituent unit of the state system of higher education. [and for] For
109 the purposes of section 4e-19, "state contracting agency" includes the
110 State Education Resource Center, established under section 10-4q;

111 Sec. 5. Section 4e-5 of the general statutes is repealed and the
112 following is substituted in lieu thereof (*Effective October 1, 2019*):

113 (a) (1) The head of each state contracting agency shall appoint an
114 agency procurement officer. Such officer shall serve as the liaison
115 between the agency and the Chief Procurement Officer on all matters
116 relating to the agency's procurement activity, including, but not
117 limited to, implementation and compliance with the provisions of
118 statutes and regulations concerning procurement and any policies or
119 regulations adopted by the board, coordination of the training and
120 education of agency procurement employees and any person serving
121 on the Contracting Standards Advisory Council;

122 (2) The agency procurement officer shall be responsible for assuring
123 that contractors are properly screened prior to the award of a contract,
124 evaluating contractor performance during and at the conclusion of a
125 contract, submitting written evaluations to a central data repository to
126 be designated by the board and creating a project management plan
127 for the agency with annual reports to the board pertaining to
128 procurement projects within the agency.

129 (b) The State Contracting Standards Board, with the advice and
130 assistance of the Commissioner of Administrative Services, shall
131 develop a standardized state procurement and project management
132 education and training certification program. Such education and
133 training certification program shall develop education, training and
134 professional development opportunities for employees of state
135 contracting agencies charged with procurement responsibilities. The
136 program shall educate such employees in general business acumen
137 and on proper purchasing procedures as established in statutes and
138 regulations concerning procurement with an emphasis on ethics,
139 fairness, consistency and project management. [Participation in the
140 program] Certification shall be required of any supervisory and
141 nonsupervisory state employees in state contracting agencies with
142 responsibility for buying, purchasing, renting, leasing or otherwise
143 acquiring any supplies, service or construction, including the
144 preparation of the description of requirements, selection and
145 solicitation of sources, preparation and award of contracts and all

146 phases of contract administration.

147 (c) The program shall include, but shall not be limited to (1) training
148 and education concerning federal, state and municipal procurement
149 processes, including the statutes and regulations concerning
150 procurement; (2) training and education courses developed in
151 cooperation with the Office of State Ethics, the Freedom of Information
152 Commission, the State Elections Enforcement Commission, the
153 Commission on Human Rights and Opportunities, the office of the
154 Attorney General and any other state agency the board determines is
155 necessary in carrying out statutes and regulations concerning
156 procurement; (3) providing technical assistance to state contracting
157 agencies and municipalities for implementing statutes and regulations
158 concerning procurement, regulations, policies and standards
159 developed by the board; (4) training to current and prospective
160 contractors and vendors and others seeking to do business with the
161 state; and (5) training and education of state employees in the area of
162 best procurement practices in state purchasing with the goal of
163 achieving the level of acumen necessary to achieve the objectives of
164 statutes and regulations concerning procurement.

165 (d) Any employee who completes the program established under
166 subsection (b) of this section shall be [issued documentation] granted
167 certification by the board acknowledging such employee's
168 participation in the program. The board shall submit an annual report
169 to the Governor and the General Assembly on the status of such
170 program in accordance with section 11-4a.

171 (e) The board shall adopt regulations, in accordance with the
172 provisions of chapter 54, to develop and implement the [training and
173 education] education and training certification program established
174 under subsection (b) of this section.

175 Sec. 6. Section 4e-6 of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective October 1, 2019*):

177 (a) The board shall appoint a Chief Procurement Auditor for a term
178 not to exceed six years, unless reappointed pursuant to the provisions
179 of this subsection. The Chief Procurement Auditor shall report to the
180 board and annually be evaluated by, and serve at the pleasure of, the
181 board. For administrative purposes only, the Chief Procurement
182 Auditor shall be supervised by the executive director.

183 (b) The Chief Procurement Auditor shall: (1) In consultation with
184 the Auditors of Public Accounts, establish procedures for monitoring
185 the financial and cost provisions of contracting regulations; (2)
186 establish an anonymous hotline to receive complaints regarding
187 procurement and investigate such complaints, as appropriate; and (3)
188 measure and report annually on procurement process improvement.

189 [(a)] (c) The [board] Chief Procurement Auditor shall conduct audits
190 of state contracting agencies, triennially, to ensure compliance with
191 statutes and regulations concerning procurement. In conducting each
192 such audit, the [board] Chief Procurement Auditor shall have access to
193 all contracting and procurement records, may interview any and all
194 personnel responsible for contracting, contract negotiations or
195 procurement and may enter into an agreement with the Auditors of
196 Public Accounts to effectuate such audit.

197 [(b)] (d) Upon completion of any such audit, the [board] Chief
198 Procurement Auditor shall prepare and issue a compliance report for
199 the state contracting agency. Such report shall identify any process or
200 procedure that is inconsistent with statutes and regulations concerning
201 procurement and indicate those corrective measures the [board] Chief
202 Procurement Auditor deems necessary to comply with statutes and
203 regulations concerning procurement requirements. Such report shall
204 be issued and delivered not later than thirty days after completion of
205 such audit and shall be a public record.

206 Sec. 7. Subsection (a) of section 4e-7 of the general statutes is
207 repealed and the following is substituted in lieu thereof (*Effective*
208 *October 1, 2019*):

209 (a) For cause, the State Contracting Standards Board may review,
210 terminate or recommend to a state contracting agency the termination
211 of any contract or procurement agreement undertaken by any state
212 contracting agency after providing fifteen days' notice to the state
213 contracting agency and the applicable contractor, and consulting with
214 the Attorney General. Such termination of a contract or procurement
215 agreement by the board may occur only after (1) the board has
216 consulted with the contracting agency to determine the impact of an
217 immediate termination of the contract, (2) a determination has been
218 made jointly by the board and the contracting agency that an
219 immediate termination of the contract will not create imminent peril to
220 the public health, safety or welfare, (3) a vote of two-thirds of the
221 members of the board present and voting for that purpose, and (4) the
222 board has provided the state contracting agency and the contractor
223 with opportunity for a hearing conducted pursuant to the provisions
224 of chapter 54. Such action shall be accompanied by notice to the state
225 contracting agency and any other affected party. For the purpose of
226 this section, "for cause" means: (A) A violation of section 1-84 or 1-86e,
227 as determined by the Citizen's Ethics Advisory Board; (B) wanton or
228 reckless disregard of any state contracting and procurement process by
229 any person substantially involved in such contract or state contracting
230 agency; or (C) notification from the Attorney General to the state
231 contracting agency that an investigation pursuant to section 4-61dd has
232 concluded that the process by which such contract was awarded was
233 compromised by fraud, collusion or any other criminal violation.
234 Nothing in this section shall be construed to limit the authority of the
235 board or Chief Procurement Auditor, as described in section 4e-6, as
236 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	4-215
Sec. 2	<i>October 1, 2019</i>	4-216
Sec. 3	<i>October 1, 2019</i>	4e-36(a)

Sec. 4	October 1, 2019	4e-1(28)
Sec. 5	October 1, 2019	4e-5
Sec. 6	October 1, 2019	4e-6
Sec. 7	October 1, 2019	4e-7(a)

Statement of Purpose:

To implement the recommendations of the State Contracting Standards Board contained in their 2018 report.

[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.]

Co-Sponsors: REP. DELNICKI, 14th Dist.

H.B. 5418