

State Contracting 101

State Contracting Standards Board (SCSB)

[PA 07-1 SSS](#), *An Act Concerning Clean Contracting Standards*, created the SCSB as an independent executive branch agency. It gave the board various responsibilities associated with state contracting processes, including adopting procurement regulations and reviewing, monitoring, and auditing state contracting agencies' procurement processes. The board has yet to adopt their implementing regulations. ([PA 11-48](#) placed SCSB within the Office of Governmental Accountability for administrative support, but retained the board's independent decision-making authority.)

State Contracting Agencies

The Department of Administrative Services (DAS) is charged with purchasing or contracting for all supplies, materials, equipment, and contractual services on behalf of executive branch agencies, except for "emergency" purchases and certain other limited exceptions ([CGS §§ 4a-2 & 4a-51](#)). DAS regulations authorize agencies to make certain purchases directly under prescribed conditions and procedures ([Conn. Agencies Regs. § 4a-52-2](#)).

DAS is also responsible for capital improvements to state buildings that house executive agencies or offices, except that most agencies can contract for up to \$500,000 to repair, alter, or make additions to buildings with the DAS commissioner's approval. The judicial branch can administer these projects up to \$1.25 million and the board of regents of higher education up to \$2 million. The University of Connecticut, and legislative branch each have independent contracting for capital expenditures ([CGS § 4b-52](#)).

The law exempts from the definition of state contracting agency, and therefore DAS and SCSB authority, (1) the legislative and judicial branches; (2) the offices of the attorney general, secretary of state, state comptroller, and state treasurer with respect to their constitutional functions; (3) state agencies with respect to contracts specific to the state treasurer's constitutional and statutory functions; and (4) the constituent units of higher education for purposes other than the privatization law (see below). In addition, the Department of Transportation administers highway, bridge, and all other construction projects under separate statutes.

Contract Award Criteria

By law, DAS must award contracts for public works projects and acquire most goods and services on the basis of competitive solicitation. Under a competitive solicitation process, agencies post contracting opportunities on the electronic State Contracting Portal which must include a description of the project scope or type of goods or services being sought and the estimated value of the contract ([CGS § 4a-57](#)).

Competitive bids must typically be awarded to the lowest responsible qualified bidder, who is not necessarily the lowest-priced bidder ([CGS § 4b-92](#)). Objective criteria specified in the bid invitation are used to evaluate bidders and must include the bidder's skill, ability, and integrity required to perform the work in terms of past performance and financial responsibility ([CGS § 4a-59](#)). (The legislative branch and constituent units of higher education award their public works contracts using the same criteria ([CGS § 4b-91 et seq.](#)))

Supplier Diversity

By law, all state agencies must annually set-aside or reserve (1) 25% of their contracts for exclusive competitive bidding by DAS-certified small business enterprises (SBEs) and (2) 25% of that amount (6.25% of the total) for exclusive bidding by small contractors that are certified as minority business enterprises (MBEs) (i.e., small businesses or nonprofit organizations owned by ethnic minorities, women, or individuals with disabilities). Similar requirements apply to contractors awarded municipal public works contracts that are state financed or quasi-public agency contracts. Contracts exempt from the set-aside requirement include contracts (1) for goods and services determined by the DAS commissioner to not customarily be supplied by small contractors and (2) for which set-aside requirements would conflict with a federal law or regulation ([CGS § 4a-60g](#)).

Change Orders

By law, the SCSB is also required to adopt regulations that require prior written certification for every contract modification, change order, or contract price adjustment for a state construction contract over \$50,000. If the changes will increase the total project or contract budget, the agency procurement officer cannot execute the modification, change order, or adjustment unless sufficient funds are available or the scope of the project or contract is adjusted to permit the degree of completion that is feasible within the total project or contract budget as it existed before the contract change under consideration ([CGS § 4e-46](#)).

Privatization

By law, if a state contracting agency seeks to enter into a contract that privatizes services performed by state employees, it generally must conduct a cost-benefit analysis and submit a business case to the State Contracting Standards Board for its approval. The business case must include, among other things, the cost-benefit analysis and 11 other matters relating to the privatized service, such as its goals, a rationale for them, and options for achieving them ([CGS § 4e-16](#)).

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