
OLR Bill Analysis

sSB 473 (File 474, as amended by Senate "A")*

AN ACT CONCERNING THE STATE CONTRACTING STANDARDS BOARD.

SUMMARY

This bill makes several changes affecting the State Contracting Standards Board (SCSB) and state contracting. It grants the board certain protections from having its budget request modified or allotments reduced. It also requires agency procurement officers to advise bidders, proposers, and contractors about certain rights enforced by SCSB (e.g., the right to contest a contract solicitation or award).

Separately, the bill adds to the requirements that apply to state agencies seeking to enter into privatization contracts. It also (1) requires contracting agencies to post information on their websites about certain emergency procurements they enter into and (2) limits to emergency situations the Department of Administrative Services' (DAS) use of on-call construction services consultants.

Lastly, the bill makes technical changes (§ 3).

*Senate Amendment "A" removes provisions from the original bill that, among other things, (1) appropriated \$467,055 to SCSB in FY 23 to hire five full-time employees and (2) subjected quasi-public agencies to the board's full authority, including the law on privatization contracts.

EFFECTIVE DATE: July 1, 2022, except the provision on budget request modifications and allotment reductions is effective upon passage.

§ 1 — SCSB BUDGET

The bill requires the Office of Policy and Management (OPM) secretary to include in the proposed budget documents that OPM submits to the legislature the estimates of expenditure requirements,

together with any recommended adjustments and revisions, that the office receives from SCSB's executive director. It also prohibits the governor from reducing SCSB's allotment requisitions or allotments in force.

Existing law grants these same protections to the (1) Office of State Ethics (CGS § 1-81a), (2) Freedom of Information Commission (CGS § 1-205a), and (3) State Elections Enforcement Commission (CGS § 9-7c).

§ 2 — AGENCY PROCUREMENT OFFICERS

Existing law requires the head of each state contracting agency to appoint an agency procurement officer who must, among other things, (1) assure that contractors are properly screened before a contract award and (2) evaluate contractor performance during and at the conclusion of a contract.

The bill additionally requires procurement officers to advise bidders, proposers, and contractors of certain rights enforced by SCSB. These are (1) bidders' and proposers' right to contest a contract solicitation or award and (2) SCSB's authority to determine that a solicitation, proposed award, or actual award violated the law.

Under the bill, the procurement officers must ensure that (1) each bid, RFP (request for proposals), or other solicitation for goods and services contains a notice of these rights; (2) contractors are advised of these rights before entering a contract; and (3) unsuccessful bidders, proposers, and respondents are advised of these rights when the contract is awarded.

§ 4 — PRIVATIZATION LAW

By law, if a contracting agency seeks to enter into a contract that privatizes services performed by state employees, then it generally must conduct a cost-benefit analysis and submit a business case to SCSB for its approval. Under current law, the business case must include, among other things, the cost-benefit analysis and 11 other analyses (the bill adds one more, see below) relating to the privatized service, such as its goals, their rationale, and options for achieving them (CGS § 4e-16(d)). An agency may publish notice soliciting bids for a privatization contract

only after the board approves the business case (CGS § 4e-16(i)). The bill requires that the business case additionally include an analysis of a proposed contract's potential impact on workers of color or workers who are women, including whether it will lessen or increase historical patterns that produce inequities between these workers and other workers.

The bill also expands the definition of "core governmental function" under the privatization statute to include the provision of essential human services to state residents who would otherwise lack the support necessary to assure basic human needs. The privatization statute includes a rebuttable presumption that core governmental functions should not be privatized.

§§ 5-9 — EMERGENCY PROCUREMENTS

Purchases of \$10,000 or Less (§ 5)

The law allows SCSB, in consultation with the DAS commissioner, to waive competitive bidding or negotiation requirements for minor, nonrecurring, or emergency purchases of \$10,000 or less. The bill allows it to do so upon application by a state contracting agency. It requires contracting agencies that obtain this waiver to post notice of the emergency purchase on their websites before making the purchase. (Existing law also allows the DAS commissioner to waive these requirements for similar reasons without consulting the board (CGS § 4a-57(b)).)

Threats to Public Health, Welfare, or Safety (§ 6)

Current law requires SCSB to adopt regulations permitting emergency procurements when there exists a threat to public health, welfare, or safety. (In practice, the board has not done so.) The bill instead directly allows contracting agencies to enter into these procurements and makes the board's adoption of regulations permissive.

The bill requires contracting agencies to (1) notify SCSB about the need for the procurement and (2) post on their websites their written determination of the basis for the emergency and selection of the

particular contractor. As under existing law, this determination must also be in the contract file and transmitted to the governor and legislative leaders.

Existing law allows the DAS commissioner or the state's chief information officer to permit emergency procurements, subject to the Standardization Committee's approval, if the cost is \$50,000 or more (CGS § 4a-58).

On-Call Construction Consultant Contracts (§§ 7 & 8)

The law allows the DAS commissioner to establish a list of "on call" construction services consultants (e.g., architects, professional engineers, accountants, and others; see BACKGROUND). Under the bill, DAS may enter into contracts with on-call consultants, without inviting responses from the consultants, only for an emergency procurement due to a threat to public health, welfare, or safety. It makes a conforming change to a statute governing on-call consultants specifically for Department of Energy and Environmental Protection and Military Department projects.

"Fast-Track" Projects (§ 9)

The bill limits to emergency procurements DAS's ability to use existing law's "fast-track authority" for five specified capital projects.

Under the fast-track process, the DAS commissioner submits three or more qualified general contractors who are prequalified to an award panel, which then makes a recommendation to the commissioner. The law establishes five fast-track projects: a community court project, the downtown Hartford higher education center project, a correctional facility project, a juvenile detention center project, and Connecticut State University System student dormitories.

BACKGROUND

On-Call Contracts

An on-call contract defines a broad range of consultant services and is generally valid for two to three years. An on-call contract is generally not connected to a specific project; rather, DAS subsequently issues task letters to firms with on-call contracts that identify a specific scope of

services to be performed and the fee for those services.

DAS must establish selection panels for evaluating consultant services proposals (including those for on-call contracts) if the value of the services exceeds \$500,000. The panels must submit a list of the most qualified firms to the DAS commissioner for his consideration.

Related Bills

sHB 5432 (File 635), reported favorably by the Appropriations Committee, includes the same provisions on modifying SCSB's budget request and reducing allotments.

sHB 5453 (File 497), reported favorably by the Government Administration and Elections Committee, requires the DAS commissioner to post on the department's website certain goods and services contracts entered into without using competitive bidding.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/28/2022)