AN ACT CONCERNING THE USE OF COMPETITIVE PROCUREMENT FOR STATE CONTRACTS.

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

Section 1. Section 4-212 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2022):

As used in this section and sections [4-212] 4-213 to 4-219, inclusive:

(1) "Competitive negotiation" means a procedure for contracting for services in which (A) proposals are solicited from qualified persons, firms or corporations by a request for proposals or any other form of competitive procurement, and (B) changes may be negotiated in proposals and prices after being submitted.

(2) "Competitive procurement" means the purchase or acquisition of services by a state agency through an open and fair process, where all responsible entities have an equal opportunity to pursue, and potentially be selected for, a contract to provide the state agency with the desired services.
"Personal service contractor" means any person, firm or corporation not employed by the state, who is hired by a state agency for a fee to provide services to the agency. The term "personal service contractor" [shall] does not include (A) a person, firm or corporation providing "contractual services", as defined in section 4a-50, as amended by this act, to the state, (B) a "consultant", as defined in section 4b-55, (C) a "consultant", as defined in section 13b-20b, (D) an agency of the federal government, of the state or of a political subdivision of the state, or (E) a person, firm or corporation providing consultant services for information and telecommunications systems authorized under subdivision (3) of subsection (b) of section 4d-2.

"Personal service agreement" means a written agreement defining the services or end product to be delivered by a personal service contractor to a state agency, excluding any agreement with a personal service contractor that the state accounting manual does not require to be submitted to the Comptroller.

"Secretary" means the Secretary of the Office of Policy and Management.

"State agency" means a department, board, council, commission, institution or other executive branch agency.

Sec. 2. Section 4-214 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2022):

Each personal service agreement executed (1) on or after July 1, 1994, until June 30, 2023, and having a cost of not more than twenty thousand dollars and a term of not more than one year, and (2) on or after July 1, 2023, and having a cost of not more than fifty thousand dollars and a term of not more than one year, shall be based, when possible, on competitive negotiation or competitive quotations.

Sec. 3. Section 4-215 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2022):
(a) Each personal service agreement executed on or after July 1, 1994, until June 30, 2023, and having a cost of more than twenty thousand dollars but not more than fifty thousand dollars and a term of not more than one year, or executed on or after July 1, 2023, and having a cost of more than fifty thousand dollars and a term of not more than one year, shall be based on competitive negotiation or competitive quotations, unless the state agency purchasing the personal services determines that a sole source purchase is required and applies to the secretary for a waiver from such requirement and the secretary grants the waiver. Not later than March 1, 1994, the secretary shall adopt guidelines for determining the types of services that may qualify for such waivers. The qualifying services shall include, but not be limited to, (1) services for which the cost to the state of a competitive selection procedure would outweigh the benefits of such procedure, as documented by the state agency, (2) proprietary services, (3) services to be provided by a contractor mandated by the general statutes or a public or special act, and (4) emergency services, including services needed for the protection of life or health. The secretary shall post any approvals of requests for a waiver received under this section on the State Contracting Portal. Not later than January 15, 2020, and annually thereafter, the secretary shall submit a report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and government administration and the State Contracting Standards Board listing any such waiver requests received during the prior year and the justification for the grant or denial of such request.

(b) [The secretary] Prior to submitting an application to the secretary for approval of a sole source purchase of audit services, the state agency shall [immediately] notify the Auditors of Public Accounts of any [application that the secretary receives for approval of a sole source purchase of audit services] such intended application and give the auditors the opportunity to review the application to advise the state agency and secretary as to whether such services are necessary and, if so, whether such services could be provided by said auditors.
Sec. 4. Subsection (a) of section 4-216 of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2022):

(a) No state agency may execute a personal service agreement having a cost of more than fifty thousand dollars or a term of more than one year, without the approval of the secretary. A state agency may apply for an approval by submitting the following information to the secretary: (1) A description of the services to be purchased and the need for such services; (2) an estimate of the cost of the services and the term of the agreement; (3) whether the services are to be on-going; (4) whether the state agency has contracted out for such services during the preceding two years and, if so, the name of the contractor, term of the agreement with such contractor and the amount paid to the contractor; (5) whether any other state agency has the resources to provide the services; (6) whether the agency intends to purchase the services by competitive negotiation and, if not, why; and (7) whether it is possible to purchase the services on a cooperative basis with other state agencies. The secretary shall approve or disapprove an application [within] not later than fifteen business days after receiving it and any necessary supporting information, [ ], provided if the secretary does not act within such fifteen-day period the application shall be deemed to have been approved. The secretary shall immediately notify the Auditors of Public Accounts of any application which the secretary receives] Prior to submitting an application for approval of a personal services agreement for audit services to the secretary, the state agency shall notify the Auditors of Public Accounts of such intended application and give said auditors an opportunity to review the application during such fifteen-day period and advise the state agency and secretary as to whether such audit services are necessary and, if so, could be provided by said auditors.

Sec. 5. Subsection (a) of section 4-217 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2022):
(a) [Not later than March 1, 1994, the] The Secretary of the Office of Policy and Management shall establish standards for state agencies to follow in entering into personal service agreements. The standards shall include, but not be limited to, provisions for: (1) Evaluating the need to use a personal service agreement, (2) developing a request for proposals or any other form of competitive procurement, (3) advertising for personal service contractors, (4) evaluating submitted proposals, (5) selecting a personal service contractor, including compliance with section 4a-60g, (6) systematically monitoring and evaluating personal service contractor performance, (7) documenting the entire process for selecting and managing personal service contractors, and (8) carrying out any other aspect of such process.

Sec. 6. Subsection (a) of section 4-218 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2022):

(a) Not later than October 1, 2009, and annually thereafter, the secretary shall submit a report to the General Assembly indicating (1) for each personal service agreement, pursuant to sections 4-214 to 4-216, inclusive, as amended by this act, and executed during the preceding fiscal year, (A) the name of the personal service contractor, (B) a description of the services provided, (C) the term and cost of the agreement, and (D) the method of selecting the personal service contractor; and (2) for each such agreement either executed or otherwise in effect during the preceding fiscal year, (A) the amount of all payments made during the preceding fiscal year to the personal service contractor, and (B) the amount of any federal or private funds allocated for such payments, and (C) the total amount of all such payments.

Sec. 7. Section 4a-50 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2022):

When used in this chapter, unless the context indicates a different meaning:
(1) "State agency" includes any officer, department, board, council, commission, institution or other agency of the Executive Department of the state government;

(2) "Supplies", "materials" and "equipment" mean any and all articles of personal property furnished to or used by any state agency, including all printing, binding, publication of laws, stationery, forms, and reports;

(3) "Contractual services" means any and all laundry and cleaning service, pest control service, janitorial service, security service, the rental and repair, or maintenance, of equipment, machinery and other state-owned personal property, advertising [and photostating, mimeographing,] and other service arrangements where the services are provided by persons other than state employees;

(4) "Competitive bidding" means the submission of prices by persons, firms or corporations competing for a contract to provide supplies, materials, equipment or contractual services, under a procedure in which the contracting authority does not negotiate prices;

(5) "Competitive negotiation" means a procedure for contracting for supplies, materials, equipment or contractual services, in which (A) proposals are solicited from qualified suppliers by a request for proposals or any other form of competitive procurement, and (B) changes may be negotiated in proposals and prices after being submitted;

(6) "Competitive procurement" means the purchase or acquisition of services by a state agency through an open and fair process, where all responsible entities have an equal opportunity to pursue, and potentially be selected for, a contract to provide the state agency with the desired services;

[(6)] (7) "Bidder" means a person, firm or corporation submitting a competitive bid in response to a solicitation or any other form of competitive procurement; and
"Proposer" means a person, firm or corporation submitting a proposal in response to a request for proposals or any other form of competitive procurement.

This act shall take effect as follows and shall amend the following sections:

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