
OLR Bill Analysis

sHB 5692

AN ACT CONCERNING OVERSIGHT OF CONTRACTS OF THE CONNECTICUT PORT AUTHORITY.

SUMMARY

This bill generally requires the Connecticut Port Authority (CPA) to follow the same procedures as state agencies when entering into certain goods and services contracts. Generally, these procedures require (1) using competitive bidding or competitive negotiation when purchasing goods and services and (2) awarding contracts to the lowest responsible qualified bidder or highest-scoring bidder in a multiple-criteria bid. The bill's provisions generally mirror provisions in existing law that apply to executive branch state agencies (CGS §§ 4a-50, -57 & -59).

The bill also makes permanent the State Contracting Standards Board's (SCSB's) authority over CPA, which was set by the 2021 implementer and expires July 1, 2026, under current law (PA 21-2, June Special Session, § 309). Like current law, the bill defines CPA as a "state contracting agency" under SCSB's authorizing statutes, except for the state's privatization law (CGS § 4e-16, which, among other things, subjects certain privatization contracts to SCSB's approval). The board's authority over CPA includes auditing CPA's compliance with procurement laws and regulations and reviewing CPA's contracts and procurement agreements (CGS §§ 4e-6 & -7).

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2023

COMPETITIVE BIDDING REQUIREMENTS

Procedures

The bill's requirements apply to CPA's purchases of supplies, materials, equipment, and specified contractual services (e.g., laundry

and cleaning, equipment maintenance). With certain exceptions, it requires that purchases of these goods and services be made using competitive bidding or competitive negotiation (as defined in existing law) when possible. When using competitive negotiation, CPA must include price as an explicit criterion in the request for proposals and contract award.

The bill requires CPA to adopt procedures establishing standards and procedures for (1) using competitive negotiation, including criteria to be considered and each criterion's weight, and (2) making additional purchases from existing contracts. As under existing law, the bill establishes exceptions for (1) minor nonrecurring and emergency purchases of \$10,000 or less and (2) specified public utility services.

Solicitations

Under the bill, CPA must solicit competitive bids or proposals by noticing the planned purchase as it determines will promote competition and maximize public participation, including by small contractors certified under the state set-aside program (see BACKGROUND). The notice must include the types of goods and services sought by CPA and the contract award's estimated value.

When applicable, the notice must also contain (1) a notice of state law's nondiscrimination and affirmative action requirements and (2) provisions for awarding contracts to entities certified under the state set-aside program.

The bill requires CPA to keep bids and proposals sealed or secured until publicly opened at the time stated in the solicitation notice.

Contract Awards

The bill requires that all open-market orders or contracts for the specified goods and services be awarded to the (1) lowest responsible qualified bidder, (2) highest-scoring bidder in a multiple-criteria bid, or (3) proposer that CPA deems as having the most advantageous proposal.

"Lowest responsible qualified bidder" refers to the lowest bidder that

has the skill, ability, and integrity needed to perform the work. “Highest-scoring bidder in a multiple-criteria bid” refers to the bidder with the highest score for a combination of attributes, including price, skill, ability, and integrity based on objective criteria established in the bid solicitation. In both cases, CPA must base its evaluation on the bidder’s fulfillment of past contract obligations and experience or lack of experience in delivering the specific goods or services sought in the bid solicitation.

BACKGROUND

Related Bills

sSB 1223, reported favorably by the Government Administration and Elections Committee, (1) makes permanent SCSB’s authority over CPA and subjects CPA to the privatization law and (2) subjects all quasi-public agencies to the board’s full authority.

Set-Aside Program

The state set-aside program requires state agencies and certain political subdivisions (including quasi-public agencies) to set aside 25% of the total value of all contracts they let for construction, goods, and services each year for exclusive bidding by certified small contractors. The agencies must further reserve 25% of the set-aside value (6.25% of the total) for exclusive bidding by certified minority business enterprises (MBE).

By law, a “certified small contractor” is one that maintains its principal place of business in the state. The contractor must be (1) registered as a small business in the federal database maintained by the U.S. General Services Administration, as required to do business with the federal government, or (2) be a nonprofit entity that (a) had gross revenues of \$20 million or less during its most recent fiscal year, and (b) is independent. MBEs are small contractors owned by women, minorities, or people with disabilities. The owner must have managerial and technical competence and experience directly related to his or her principal business activities (CGS § 4a-60g(a)).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 19 Nay 0 (03/27/2023)