



# Senate

General Assembly

**File No. 608**

January Session, 2023

Substitute Senate Bill No. 1184

*Senate, April 17, 2023*

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES CONCERNING STATE CONTRACTING REQUIREMENTS AND CERTAIN PROCUREMENT THRESHOLDS AND CONCERNING CONTRACTS, BIDS AND CAPITAL IMPROVEMENT PROJECTS FOR THE UNIVERSITY OF CONNECTICUT.***

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

1 Section 1. Subsection (b) of section 4a-53 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective from*  
3 *passage*):

4 (b) Any state agency, with the approval of the Commissioner of  
5 Administrative Services or [his or her] said commissioner's designee,  
6 may purchase equipment, supplies, materials and services from (1)  
7 another state, including an instrumentality or political subdivision of  
8 another state, or (2) a person who has a contract to sell such property or  
9 services to other state governments, other branches, divisions or  
10 departments of this state, political subdivisions of this state, nonprofit

11 organizations or public purchasing consortia, in accordance with the  
12 terms and conditions of such contract.

13 Sec. 2. Subsection (f) of section 4a-57 of the general statutes is repealed  
14 and the following is substituted in lieu thereof (*Effective from passage*):

15 (f) The commissioner shall post any contract entered into under this  
16 section that has not been subject to competitive bidding or competitive  
17 negotiation on the Internet web site of the Department of  
18 Administrative Services, [provided nothing] except for minor  
19 nonrecurring or emergency purchases in an amount of ten thousand  
20 dollars or less. Nothing in this subsection shall be construed to require  
21 the disclosure of any information not required to be disclosed under  
22 subsection (b) of section 1-210.

23 Sec. 3. Section 4d-32 of the general statutes is repealed and the  
24 following is substituted in lieu thereof (*Effective from passage*):

25 [(a)] No contractor shall award a subcontract for work under a  
26 contract or for work under an amendment to a contract without the  
27 approval of the Commissioner of Administrative Services or a designee  
28 of (1) the selection of the subcontractor, and (2) the disclosure of the  
29 provisions of the subcontract.

30 [(b) Each such contractor shall file a copy of each executed  
31 subcontract or amendment to the subcontract with the Commissioner of  
32 Administrative Services, who shall maintain the subcontract or  
33 amendment as a public record, as defined in section 1-200.]

34 Sec. 4. Subsection (l) of section 4a-60g of the general statutes is  
35 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
36 *2024*):

37 (l) On or before [August] June thirtieth of each year, the  
38 Commissioner of Administrative Services shall provide each awarding  
39 agency setting aside contracts or portions of contracts under subdivision  
40 (2) of subsection (b) of this section [shall prepare] a preliminary report  
41 establishing small and minority business state set-aside program goals

42 for the twelve-month period beginning July first in the same year. [Each]  
43 On or before September thirtieth of each year, each such awarding  
44 agency shall submit a final version of such report [shall be submitted] to  
45 the Commissioner of Administrative Services, the Commission on  
46 Human Rights and Opportunities and the cochairpersons and ranking  
47 members of the joint standing committees of the General Assembly  
48 having cognizance of matters relating to planning and development and  
49 government administration.

50 Sec. 5. Subsections (a) and (b) of section 4a-57 of the general statutes  
51 are repealed and the following is substituted in lieu thereof (*Effective*  
52 *October 1, 2023*):

53 (a) All purchases of, and contracts for, supplies, materials, equipment  
54 and contractual services, except purchases and contracts made pursuant  
55 to the provisions of subsection (b) or (d) of this section and public utility  
56 services as provided in subsection (e) of this section shall be based, when  
57 possible, on competitive bids or competitive negotiation. The  
58 commissioner shall solicit competitive bids or proposals by providing  
59 notice of the planned purchase in a form and manner that the  
60 commissioner determines will maximize public participation in the  
61 competitive bidding or competitive negotiation process, including  
62 participation by small contractors, as defined in section 4a-60g, as  
63 amended by this act, and promote competition. In the case of an  
64 expenditure that is estimated to exceed [fifty] one hundred thousand  
65 dollars, such notice shall be posted, not less than five calendar days  
66 before the final date of submitting bids or proposals, on the State  
67 Contracting Portal. Each notice of a planned purchase under this  
68 subsection shall indicate the type of goods and services to be purchased  
69 and the estimated value of the contract award. The notice shall also  
70 contain a notice of state contract requirements concerning  
71 nondiscrimination and affirmative action pursuant to section 4a-60 and,  
72 when applicable, requirements concerning the awarding of contracts to  
73 small contractors, minority business enterprises, individuals with a  
74 disability and nonprofit corporations pursuant to section 4a-60g, as  
75 amended by this act. Each bid and proposal shall be kept sealed or

76 secured until opened publicly at the time stated in the notice soliciting  
77 such bid or proposal.

78 (b) The commissioner may, at the commissioner's discretion, waive  
79 the requirement of competitive bidding or competitive negotiation in  
80 the case of minor nonrecurring or emergency purchases of [ten] twenty-  
81 five thousand dollars or less in amount.

82 Sec. 6. Subsection (b) of section 4a-58 of the general statutes is  
83 repealed and the following is substituted in lieu thereof (*Effective October*  
84 *1, 2023*):

85 (b) Whenever an emergency exists by reason of extraordinary  
86 conditions or contingencies that could not reasonably be foreseen and  
87 guarded against, or because of unusual trade or market conditions, the  
88 Commissioner of Administrative Services, or, in the case of purchases,  
89 leases and contracts for information systems, information technology  
90 personal property and telecommunication systems, the Chief  
91 Information Officer, may, if it is in the best interests of the state, waive  
92 the competitive bid or proposal requirements set forth in section 4a-57,  
93 as amended by this act. If any such procurement is estimated to cost  
94 [fifty] one hundred thousand dollars or more, such waiver shall be  
95 subject to the approval of the Standardization Committee. A statement  
96 of all purchases made under the provisions of this section and, in the  
97 case of a contract, the contract shall be posted on the Internet web site of  
98 the Department of Administrative Services, provided nothing in this  
99 subsection shall be construed to require the disclosure of any  
100 information not required to be disclosed under subsection (b) of section  
101 1-210.

102 Sec. 7. Subdivision (1) of subsection (b) of section 4a-60a of the general  
103 statutes is repealed and the following is substituted in lieu thereof  
104 (*Effective from passage*):

105 (1) Any contractor who has one or more contracts with an awarding  
106 agency or who is a party to a municipal public works contract or a  
107 contract for a quasi-public agency project shall include a

108 nondiscrimination affirmation provision in the contract certifying that  
109 the contractor understands the obligations of this section and will  
110 maintain a policy for the duration of the contract to assure that the  
111 contract will be performed in conformance with the nondiscrimination  
112 requirements of this section. The authorized signatory of the contract  
113 shall demonstrate his or her understanding of this obligation by either  
114 (A) initialing the nondiscrimination affirmation provision in the body of  
115 the contract, [or] (B) providing an affirmative response in the required  
116 online bid or response to a proposal question which asks if the  
117 contractor understands its obligations, or (C) signing the contract.

118 Sec. 8. Subsections (m) and (n) of section 10a-151b of the general  
119 statutes are repealed and the following is substituted in lieu thereof  
120 (*Effective from passage*):

121 (m) The chief executive officer of a constituent unit may join with a  
122 federal agency, another state government, another constituent unit,  
123 political subdivision of this state or private or nonprofit organization in  
124 a cooperative purchasing plan when the best interests of the state would  
125 be served by such plan.

126 (n) The state, through the chief executive officer of a constituent unit,  
127 may purchase equipment, supplies, materials and services from a  
128 person who has a contract to sell such property or services to a federal  
129 agency, another state government, another constituent unit, political  
130 subdivision of this state, nonprofit organization or private or public  
131 purchasing consortium, in accordance with the terms and conditions of  
132 such contract.

133 Sec. 9. Subsections (b) and (c) of section 10a-151b of the general  
134 statutes are repealed and the following is substituted in lieu thereof  
135 (*Effective October 1, 2023*):

136 (b) Except as provided in subsection (c) of this section, purchases  
137 made pursuant to this section shall be based, when possible, on  
138 competitive bids or competitive negotiation. Such chief executive officer  
139 shall solicit competitive bids or proposals by sending notice to

140 prospective suppliers and by posting notice on a public bulletin board  
141 in such officer's office. Such notice shall contain a notice of state contract  
142 requirements pursuant to section 4a-60. Each bid or proposal shall be  
143 kept sealed until opened publicly at the time stated in the notice  
144 soliciting such bid or proposal. Sealed bids or proposals shall include  
145 bids or proposals sealed within an envelope or maintained within a safe  
146 and secure electronic environment until such time as they are publicly  
147 opened. If the amount of the expenditure is estimated to exceed [fifty]  
148 one hundred thousand dollars, not later than five calendar days before  
149 the final date of submitting competitive bids or proposals, competitive  
150 bids or proposals shall be solicited by public notice posted on the  
151 Internet. All purchases [fifty] one hundred thousand dollars or less in  
152 amount shall be made in the open market, but shall, when possible, be  
153 based on at least three competitive quotations. If desired by the  
154 constituent unit, competitive quotations may include quotations  
155 submitted to the constituent unit within a safe and secure electronic  
156 environment. The constituent unit shall not refuse to consider a bid,  
157 proposal or quotation because it is not submitted electronically.

158 (c) Competitive bidding or competitive negotiation is not required in  
159 the case of (1) minor purchases of [ten] twenty-five thousand dollars or  
160 less in amount, (2) purchases made pursuant to subsection (k) of this  
161 section, (3) emergency purchases, (4) agricultural purchases of dairy  
162 products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits,  
163 vegetables or other farm products in an amount of fifty thousand dollars  
164 or less, or (5) a qualified contract, as described in subdivision (1) of  
165 subsection (b) of section 10a-151f, that is entered into pursuant to the  
166 policies adopted by either the Board of Trustees of The University of  
167 Connecticut or the Board of Regents for Higher Education pursuant to  
168 section 10a-151g. Whenever an emergency exists by reason of  
169 extraordinary conditions or contingencies that could not reasonably be  
170 foreseen and guarded against, or because of unusual trade or market  
171 conditions, the chief executive officer may, if it is for the best interest of  
172 the state, make purchases without competitive bidding. A statement of  
173 all emergency purchases made under the provisions of this subsection  
174 shall be set forth in the annual report of the chief executive officer. The

175 chief executive officer, when making an agricultural purchase in  
176 accordance with subdivision (4) of this subsection, shall give preference  
177 to dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs,  
178 fruits, vegetables or other farm products grown or produced in this state  
179 when such products, poultry, farm-raised seafood, beef, pork, lamb,  
180 eggs, fruits or vegetables are comparable in cost to other dairy products,  
181 poultry, eggs, fruits or vegetables being considered for purchase by the  
182 chief executive officer that have not been grown or produced in this  
183 state.

184 Sec. 10. Subdivision (9) of subsection (c) of section 10a-109n of the  
185 general statutes is repealed and the following is substituted in lieu  
186 thereof (*Effective from passage*):

187 (9) (A) The university shall not enter into a construction manager at-  
188 risk project delivery contract that does not provide for a maximum  
189 guaranteed price for the cost of construction which shall be determined  
190 not later than the time of the receipt and approval by the university of  
191 the trade contractor bids. Each construction manager at-risk shall invite  
192 bids and give notice of opportunities to bid on project elements, by  
193 posting any such invitation or notice on the State Contracting Portal.  
194 Each bid shall be kept sealed until opened publicly at the time and place  
195 as set forth in the notice soliciting such bid. The construction manager  
196 at-risk shall, after consultation with and approval by the university,  
197 award any related contracts for project elements to the responsible  
198 qualified contractor, who shall be prequalified pursuant to section 4a-  
199 100, submitting the lowest bid in compliance with the bid requirements,  
200 provided [(A)] (i) the construction manager at-risk shall not be eligible  
201 to submit a bid for any such project element, and [(B)] (ii) construction  
202 shall not begin prior to the determination of the maximum guaranteed  
203 price, except (I) for the project elements of site preparation and  
204 demolition that have been previously put out to bid and awarded, and  
205 (II) for the project elements of site preparation, demolition, public utility  
206 installation and connections and building envelope components,  
207 including the roof, doors, windows and exterior walls, as provided in  
208 subparagraph (B) of this subdivision.

209 (B) Construction may begin prior to the determination of the  
210 maximum guaranteed price for the project elements of site preparation,  
211 demolition, public utility installation and connections and building  
212 envelope components, including the roof, doors, windows and exterior  
213 walls, provided (i) the project involves the renovation of an existing  
214 building or facility; (ii) the project element or elements involved in such  
215 early work have been previously put out to bid and awarded; and (iii)  
216 the total cost of construction of the early work does not exceed twenty-  
217 five per cent of the estimated cost of construction for the entire project.

218 (C) If such project involves the renovation of an existing building or  
219 facility that will be performed in multiple phases while such building or  
220 facility remains occupied, the university may enter into a construction  
221 manager at-risk project delivery contract that provides for the  
222 maximum guaranteed price to be determined for each phase of the  
223 project, prior to beginning each such phase, provided each party to the  
224 contract complies with all of the requirements of subparagraph (A) of  
225 this subdivision, except the timing of the determination of the maximum  
226 guaranteed price set forth in subparagraph (A)(ii) of this subdivision.

227 Sec. 11. Subdivisions (2) to (4), inclusive, of subsection (c) of section  
228 10a-109n of the general statutes are repealed and the following is  
229 substituted in lieu thereof (*Effective October 1, 2023*):

230 (2) (A) Except as provided in subparagraph [(B)] (D) of this  
231 subdivision, any total cost basis contract or other contract for the  
232 construction of a university project which is estimated to cost more than  
233 five hundred thousand dollars, shall be publicly let by the university.  
234 The university shall give notice to contractors interested in  
235 [prequalifying to submit] submitting a project proposal or bid, by  
236 posting any such notice on the university web site and on the State  
237 Contracting Portal. The notice to [prequalify] contractors shall contain  
238 (i) the requirement that contractors be prequalified pursuant to section  
239 4a-100, or subparagraph (B) of this subdivision, as applicable to such  
240 contract, (ii) a statement of the time and place where the responses shall  
241 be received, and (iii) such additional information as the university



242 deems appropriate. Upon receipt of such responses, the university shall  
243 select [each] any contractor who (I) to the extent required pursuant to  
244 the provisions of section 4b-91, has been prequalified pursuant to  
245 section 4a-100, [and] (II) has shown itself able to post surety bonds  
246 required by such contract, [and] (III) has [demonstrated that it possesses  
247 the financial, managerial and technical ability and the integrity  
248 necessary and without conflict of interest for faithful and efficient  
249 performance of the work provided for therein. The] no conflict of  
250 interest in the performance of work required by such contract, and (IV)  
251 for any such contract that is estimated to cost more than one million  
252 dollars, has been prequalified by the university pursuant to  
253 subparagraph (B) of this subdivision.

254 (B) For any contract subject to the provisions of subparagraph (A) of  
255 this subdivision that is estimated to cost more than one million dollars,  
256 the university shall [evaluate] prequalify each contractor by evaluating  
257 whether [each] (i) such contractor (I) has demonstrated that it possesses  
258 the financial, managerial and technical ability and integrity necessary to  
259 faithfully and efficiently perform work for the university in accordance  
260 with the requirements set forth in the prequalification application  
261 issued by the university, and (II) is responsible and qualified based on  
262 its experience with projects similar to that for which the bid or proposal  
263 is to be submitted and based on objective written criteria included in the  
264 [application to request prequalification with respect to such contract.  
265 The university shall also consider whether a contractor, and]  
266 prequalification application issued by the university, and (ii) any  
267 subcontractor on the contractor's previous projects, has been in  
268 compliance with the provisions of part III of chapter 557 and chapter 558  
269 during the previous five calendar years. The university, in its discretion,  
270 may include additional qualification requirements in the notice posted  
271 pursuant to subparagraph (A) of this subdivision.

272 (C) The university may issue a confirmation of prequalification for  
273 contracts subject to the provisions of this subdivision to any contractor  
274 who meets the requirements set forth in subparagraph (B) of this  
275 subdivision. Such confirmation of prequalification shall be effective for

276 one year from the date of issuance and, upon receipt of a completed  
277 renewal application and any other materials as prescribed by the  
278 university, may be renewed for a period not exceeding two years.

279 [(B)] (D) Notwithstanding the provisions of subparagraph (A) of this  
280 subdivision, the board of trustees may approve a total cost basis contract  
281 or other contract for the construction of a university project which is  
282 estimated to cost more than five hundred thousand dollars that has not  
283 been publicly let pursuant to the provisions of said subparagraph (A),  
284 provided the board deems the contract to address an emergency.

285 (3) [The university shall thereafter give notice to those so prequalified  
286 by the university pursuant to subdivision (2) of this section of the time  
287 and place where the public letting shall occur and shall include in such  
288 notice such information of the work required as appropriate.] Each bid  
289 or proposal shall be kept sealed until opened publicly at the time and  
290 place as set forth in the notice soliciting such bid or proposal. The  
291 university shall not award any construction contract, including, but not  
292 limited to, any total cost basis contract, after public letting, except to the  
293 responsible qualified contractor, submitting the lowest bid or proposal  
294 in compliance with the bid or proposal requirements of the solicitation  
295 document. The university may, however, waive any informality in a bid  
296 or proposal, and may either reject all bids or proposals and again  
297 advertise for bids or proposals or interview at least three responsible  
298 qualified contractors and negotiate and enter into with any one of such  
299 contractors that construction contract which is both fair and reasonable  
300 to the university.

301 (4) The [notice to each contractor prequalified to submit a proposal or  
302 bid and the] construction contract, including each total cost basis  
303 contract, awarded by the university shall contain such other terms and  
304 conditions, and such provisions for penalties as the university may  
305 deem appropriate.

306 Sec. 12. Subdivision (10) of subsection (c) of section 10a-109n of the  
307 general statutes is repealed and the following is substituted in lieu  
308 thereof (*Effective October 1, 2023*):

309 (10) If the university designates a project as suitable for a design-build  
310 contract, the university may enter into a single contract with a design-  
311 builder recommended by a selection panel and selected by the  
312 university. The university shall give notice of such project and  
313 specifications for such project by posting such notice on the State  
314 Contracting Portal. The university shall establish a selection panel for  
315 each project to score the qualifications and past performance of each  
316 design-builder who submits a competitive proposal to the university for  
317 such project. The selection panel shall score the qualifications and past  
318 performance of each design-builder using a predetermined scoring  
319 method developed by the university and provided to each design-  
320 builder in advance of such design-builder's development of the  
321 competitive proposal. The selection panel's scoring method may be  
322 unique to each project, but shall consist of combining the score of each  
323 design-builder's qualifications and past performance and evaluating the  
324 technical merit of the competitive proposal and each design-builder's  
325 projected project cost. The design-build contract shall (A) include, but  
326 not be limited to, such project elements as permitting, engineering,  
327 design, construction and, if applicable, site acquisition, and (B) be based  
328 on the competitive proposal submitted by the design-builder that is  
329 selected by the university. No design-build contract for which the total  
330 cost is estimated to be more than [five hundred thousand dollars] the  
331 amount set forth in subdivision (2) of subsection (a) of section 4b-91 may  
332 be awarded to a design-builder who is not prequalified for the project  
333 in accordance with section 4a-100. Such design-build contracts shall  
334 state the responsibilities of the design-builder to deliver a completed  
335 and acceptable project on a date certain and the maximum costs of the  
336 project and, if applicable, as a separate item, the cost of any site  
337 acquisition. The university shall determine all other requirements and  
338 conditions for such competitive proposals, selection of a design-builder  
339 and other awards and shall have sole responsibility for all other aspects  
340 of such design-build contracts.

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

Section 1	<i>from passage</i>	4a-53(b)
Sec. 2	<i>from passage</i>	4a-57(f)
Sec. 3	<i>from passage</i>	4d-32
Sec. 4	<i>July 1, 2024</i>	4a-60g(l)
Sec. 5	<i>October 1, 2023</i>	4a-57(a) and (b)
Sec. 6	<i>October 1, 2023</i>	4a-58(b)
Sec. 7	<i>from passage</i>	4a-60a(b)(1)
Sec. 8	<i>from passage</i>	10a-151b(m) and (n)
Sec. 9	<i>October 1, 2023</i>	10a-151b(b) and (c)
Sec. 10	<i>from passage</i>	10a-109n(c)(9)
Sec. 11	<i>October 1, 2023</i>	10a-109n(c)(2) to (4)
Sec. 12	<i>October 1, 2023</i>	10a-109n(c)(10)

**GAE**      *Joint Favorable Subst.*

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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill, which makes several changes affecting procurement and capital projects administration, has no fiscal impact.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****sSB 1184*****AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES CONCERNING STATE CONTRACTING REQUIREMENTS AND CERTAIN PROCUREMENT THRESHOLDS AND CONCERNING CONTRACTS, BIDS AND CAPITAL IMPROVEMENT PROJECTS FOR THE UNIVERSITY OF CONNECTICUT.*****SUMMARY**

This bill makes several changes affecting (1) goods and services procurements administered by the Department of Administrative Services (DAS), UConn, and the Connecticut State Colleges and Universities (CSCU) and (2) capital projects administered by UConn.

Among other things, the bill expands the circumstances under which UConn and CSCU may make cooperative purchases and allows state agencies, with DAS approval, to make purchases directly from other states. It also increases, for UConn, CSCU, and state agencies, the thresholds at which (1) goods and services procurements must be advertised online (from \$50,000 to \$100,000) and (2) competitive bidding may be waived for minor purchases (from \$10,000 to \$25,000).

With respect to UConn capital projects, the bill eliminates a requirement that the university separately prequalify contractors for each project and instead allows UConn to prequalify contractors for one year and renew the prequalification for two years. It also allows, for construction manager at risk (CMR) projects to renovate existing buildings or facilities, (1) certain work to begin before the project's guaranteed maximum price (GMP) is determined and (2) a separate GMP to be determined for each phase of a multi-phase project.

Separately, the bill requires DAS to give awarding agencies a preliminary set-aside goal report for the upcoming fiscal year and

delays the deadline by which agencies must submit their goals to DAS. It also allows state contractors to affirm their understanding of the law's nondiscrimination requirements with respect to sexual orientation by signing the contract.

Current law requires DAS to post on its website any goods or services contract entered into without competitive bidding or competitive negotiation. The bill exempts from this requirement minor nonrecurring or emergency purchases of \$10,000 or less (§ 2).

Lastly, the bill eliminates a requirement that information technology (IT) contractors file a copy of executed subcontracts or subcontract amendments with the DAS commissioner. Existing law, unchanged by the bill, prohibits IT contractors from awarding a subcontract unless the DAS commissioner (or a designee) approves the subcontractor selection (§ 3).

EFFECTIVE DATE: Upon passage, except that the provisions on (1) UConn prequalification and increasing the goods and services procurement thresholds are effective October 1, 2023, and (2) set-aside goals are effective July 1, 2024.

## **§§ 1 & 8 — COOPERATIVE PURCHASING AND PURCHASES FROM OTHER STATES**

### ***State Agencies (§ 1)***

The bill allows state agencies, with the approval of the DAS commissioner or her designee, to purchase equipment, supplies, materials, and services directly from another state or its instrumentalities or political subdivisions. Under existing law, state agencies, if approved by the DAS commissioner or her designee, may purchase these goods and services from, among others, a person with a contract to sell them to other state governments.

### ***UConn and CSCU (§ 8)***

The bill expands the authority for UConn and CSCU to make cooperative purchases or purchases under an existing contract held by another entity (i.e., "piggyback"). (CSCU includes the state universities,

regional community-technical colleges, and Charter Oak State College.)

Specifically, the bill allows UConn and CSCU to (1) join with one another in a cooperative purchasing plan if it would serve the state's best interests and (2) purchase goods and services from a person with a contract to sell them to a federal agency or another constituent unit of higher education.

Existing law allows UConn and CSCU to (1) join with specified entities in a cooperative purchasing plan (e.g., a federal agency or another state government) and (2) purchase goods and services from a person that has a contract to sell them to specified entities (e.g., another state government or a nonprofit organization).

## **§§ 5, 6 & 9 — COMPETITIVE PROCESSES FOR GOODS AND SERVICES PURCHASES**

### ***State Agencies (§ 5 & 6)***

Existing law generally requires executive branch state agencies to make goods and services purchases using competitive bidding or competitive negotiation when possible. The bill increases, from \$50,000 to \$100,000, the threshold cost of a procurement that must be advertised on the State Contracting Portal at least five days before the submission deadline for responses (i.e., costs above this amount must be advertised). It also increases, from \$10,000 to \$25,000, the maximum cost of a minor nonrecurring and emergency purchase for which the DAS commissioner may waive competitive bidding or negotiation.

Existing law allows the DAS commissioner or the state's chief information officer, as applicable, to waive competitive bidding requirements in specified emergency situations. The bill increases, from \$50,000 to \$100,000, the minimum cost of a procurement for which the Standardization Committee must approve waiver. By law, the committee consists of the DAS commissioner, the state comptroller and state treasurer or their designees, and other department heads (or their authorized agents) designated by the governor.

### ***UConn and CSCU (§ 9)***



The bill increases, from \$50,000 to \$100,000, the maximum cost of a goods and services procurement for which UConn and CSCU do not need to solicit competitive bids or proposals. Under the bill, UConn and CSCU generally must make purchases of \$100,000 or less in the open market but must base them, when possible, on three competitive quotations. If the purchase exceeds \$100,000, then UConn and CSCU generally must submit competitive bids or proposals by posting notice online at least five calendar days before the closing date for submitting bids or proposals.

Existing law sets a number of exceptions to the above purchasing requirements, including one for minor purchases. The bill increases, from \$10,000 to \$25,000, the maximum cost of a minor purchase that is exempt from these requirements.

#### **§§ 4 & 7 — SET-ASIDE PROGRAM AND NONDISCRIMINATION AFFIRMATION**

##### ***Set-Aside Program (§ 4)***

The bill delays, from August 30 to September 30, the annual deadline by which state agencies and political subdivisions, other than municipalities, must notify DAS and other parties of their small contractor and minority business enterprise contracting set-aside goals for the current fiscal year. (By law, municipalities are not subject to this reporting requirement.)

The bill requires DAS to annually give awarding agencies a preliminary set-aside goal report for the upcoming fiscal year by June 30.

##### ***Nondiscrimination Affirmation (§ 7)***

Existing law requires that each state contract have specified language that the contractor agrees to, among other things, not discriminate on the basis of sexual orientation (i.e., a nondiscrimination affirmation provision). Under current law, the contract's authorized signatory must show his or her understanding of this obligation by either (1) providing an affirmative response to a question about the provision in the required

online bid or request for proposals or (2) initialing the affirmation provision in the contract.

The bill adds the signing of the contract to the list of ways the signatory may show his or her understanding of these requirements. A parallel nondiscrimination statute (e.g., on the basis of race or religion) already allows signatories to show their understanding by signing the contract (CGS § 4a-60).

### **§ 10 — UCONN CAPITAL PROJECTS**

The bill allows, for UConn CMR projects that involve renovating existing buildings or facilities, (1) certain work to begin before the project's guaranteed maximum price (GMP) is set and (2) a separate GMP to be set for each phase of a multi-phase project. Generally, the bill aligns UConn's CMR requirements with those for DAS CMR projects (CGS § 4b-103).

By law, a CMR project may not proceed until the GMP is set, except for site preparation and demolition work for which contracts have previously been bid and awarded (see BACKGROUND). For UConn CMR projects that involve renovating existing buildings or facilities, the bill allows public utility installation and connections, and building envelope components (e.g., roof, doors, windows, and exterior walls), to also begin before the GMP is determined, as long as (1) they have previously been bid and awarded and (2) the early work's (including site preparation and demolition) total cost is not more than 25% of the entire project's estimated construction cost.

The bill also allows a separate GMP to be set for each phase of a multi-phase project that involves renovating an existing building while it remains occupied. Under current law, one GMP is set for the entire project.

### **§§ 11 & 12 — UCONN CONTRACTOR PREQUALIFICATION**

The law generally requires that contractors for state public works projects be prequalified by DAS if the cost of the work exceeds \$500,000. Current law requires UConn to separately prequalify contractors for

each capital project whose cost exceeds \$500,000. The bill (1) increases the threshold requiring separate prequalification to \$1 million and (2) allows the university to prequalify contractors for one year (rather than for each separate project) and renew the prequalification for up to two more years. It also makes conforming changes.

As under current law, contractors seeking prequalification from UConn must be prequalified by DAS and show that they (1) have the financial, managerial, and technical ability and integrity necessary to faithfully and efficiently do work for the university; (2) are responsible and qualified based on experience with similar projects; and (3) do not have a conflict of interest. The bill allows UConn to include more qualification requirements in its discretion.

The bill allows UConn to issue a prequalification confirmation to contractors that meet the bill's requirements, valid for one year. UConn may renew the prequalification confirmation for up to two years after receiving a completed renewal application and any other materials it prescribes.

The bill subjects UConn projects whose cost exceeds \$500,000, up to \$1 million, to the prequalification requirements for state public works projects generally. As noted above, the law generally requires DAS to prequalify contractors if the cost of the work exceeds \$500,000 (CGS § 4b-91(a)(2)). As under current law, contractors for these UConn projects must not have a conflict of interest.

## **BACKGROUND**

### ***CMR Projects***

In a CMR project, the owner (e.g., UConn) hires a firm with construction experience (the construction manager or "CM"), usually during a project's design phase, to manage the entire construction process. The CM provides pre-construction services such as estimating costs, budgeting, reviewing constructability and suggesting construction alternatives, and scheduling. Once the design is finalized, the CM seeks competitive bids from subcontractors for each project

element (e. g., electrical, mechanical, carpentry, roofing). Once the subcontractors' bids are received and verified for compliance with project requirements, scope, and specifications, the CM and the project owner negotiate and set a GMP for construction. The CM assumes the risk to complete the project within the GMP.

The GMP includes the CM's fee, the cost of the work, and contingency funds for the project. The CM is responsible for costs that exceed the GMP, excluding any work not included in the final GMP that the owner authorizes through a change order process.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 12    Nay 7    (03/27/2023)