



General Assembly

January Session, 2023

Raised Bill No. 6867

LCO No. 5373



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT CONCERNING COMPETITIVE NEGOTIATION FOR CERTAIN
STATE CONTRACTS AND OTHER PROCUREMENT PRACTICES.***

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

1 Section 1. Section 4-212 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 As used in [sections 4-212] this section and sections 4-213 to 4-219,
4 inclusive, as amended by this act:

5 (1) "Competitive negotiation" means (A) a procedure for contracting
6 for services in which [(A)] proposals are solicited from qualified
7 persons, firms or corporations by a request for proposals, regardless of
8 the number of responses, and [(B)] changes may be negotiated in
9 proposals and prices after being submitted, or (B) any other open and
10 fair process in which all qualified persons, firms or corporations have
11 an equal opportunity to be selected to provide services.

12 (2) "Personal service contractor" means any person, firm or
13 corporation not employed by the state, who is hired by a state agency

14 for a fee to provide services to the agency. The term "personal service
15 contractor" [shall] does not include (A) a person, firm or corporation
16 providing "contractual services", as defined in section 4a-50, as
17 amended by this act, to the state, (B) a "consultant", as defined in section
18 4b-55, (C) a "consultant", as defined in section 13b-20b, (D) an agency of
19 the federal government, of the state or of a political subdivision of the
20 state, [or] (E) a person, firm or corporation providing consultant services
21 for information and telecommunications systems authorized under
22 subdivision (3) of subsection (b) of section 4d-2, or (F) a person, firm or
23 corporation providing transportation services under a contract entered
24 into under section 13b-34.

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

30 (4) "Secretary" means the Secretary of the Office of Policy and
31 Management.

32 (5) "State agency" means a department, board, council, commission,
33 institution or other executive branch agency.

34 Sec. 2. Section 4-214 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective July 1, 2023*):

36 Each personal service agreement executed on or after July 1, [1994]
37 2023, and having a cost of not more than [twenty] fifty thousand dollars
38 and a term of not more than one year shall be based, when possible, on
39 competitive negotiation or competitive quotations.

40 Sec. 3. Section 4-215 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective July 1, 2023*):

42 (a) Each personal service agreement executed on or after July 1, [1994]
43 2023, and having a cost of more than [twenty thousand dollars but not

44 more than] fifty thousand dollars [and a term of not more than one year]
45 shall be based on competitive negotiation or competitive quotations,
46 unless the state agency purchasing the personal services determines that
47 a sole source purchase is required and applies to the secretary for a
48 waiver from such requirement and the secretary grants the waiver. Not
49 later than March 1, 1994, the secretary shall adopt guidelines for
50 determining the types of services that may qualify for such waivers. The
51 qualifying services shall include, but not be limited to, (1) services for
52 which the cost to the state of a competitive selection procedure would
53 outweigh the benefits of such procedure, as documented by the state
54 agency, (2) proprietary services, (3) services to be provided by a
55 contractor mandated by the general statutes or a public or special act,
56 and (4) emergency services, including services needed for the protection
57 of life or health. The secretary shall post any approvals of requests for a
58 waiver received under this section on the State Contracting Portal. Not
59 later than January 15, 2020, and annually thereafter, the secretary shall
60 submit a report, in accordance with the provisions of section 11-4a, to
61 the joint standing committees of the General Assembly having
62 cognizance of matters relating to appropriations and the budgets of state
63 agencies and government administration and the State Contracting
64 Standards Board listing any such waiver requests received during the
65 prior year and the justification for the grant or denial of such request.

66 (b) [The] Not less than seven days prior to submitting any application
67 to the secretary for a sole source purchase of audit services, the agency
68 shall [immediately] notify the Auditors of Public Accounts [of any
69 application that the secretary receives for approval of a sole source
70 purchase of audit services] and give the auditors the opportunity to
71 review the application to advise the [secretary as to] agency during such
72 seven-day period whether such services are necessary and, if so,
73 whether such services could be provided by said auditors.

74 Sec. 4. Section 4-216 of the general statutes is repealed and the
75 following is substituted in lieu thereof (*Effective July 1, 2023*):

76 (a) No state agency may execute a personal service agreement having

77 a cost of more than fifty thousand dollars [or a term of more than one
78 year,] without the approval of the secretary. A state agency may apply
79 for an approval by submitting the following information to the
80 secretary: (1) A description of the services to be purchased and the need
81 for such services; (2) an estimate of the cost of the services and the term
82 of the agreement; (3) whether the services are to be on-going; (4)
83 whether the state agency has contracted out for such services during the
84 preceding two years and, if so, the name of the contractor, term of the
85 agreement with such contractor and the amount paid to the contractor;
86 (5) whether any other state agency has the resources to provide the
87 services; (6) whether the agency intends to purchase the services by
88 competitive negotiation and, if not, why; and (7) whether it is possible
89 to purchase the services on a cooperative basis with other state agencies.
90 The secretary shall approve or disapprove an application [within] not
91 later than fifteen business days after receiving it and any necessary
92 supporting information. [, provided if the secretary does not act within
93 such fifteen-day period the application shall be deemed to have been
94 approved. The secretary] In the case of a proposed personal services
95 agreement for audit services, not less than seven days prior to
96 submitting any such application to the secretary, the agency shall
97 [immediately] notify the Auditors of Public Accounts [of any
98 application which the secretary receives for approval] of a proposed
99 personal services agreement for audit services and give said auditors an
100 opportunity to review the application [during such fifteen-day period]
101 and advise the [secretary as to] agency during such seven-day period
102 whether such audit services are necessary and, if so, could be provided
103 by said auditors.

104 (b) Each personal service agreement having a cost of more than fifty
105 thousand dollars [or a term of more than one year] shall be based on
106 competitive negotiation or competitive quotations, unless the state
107 agency purchasing the personal services applies to the secretary for a
108 waiver from such requirement and the secretary grants the waiver in
109 accordance with the guidelines adopted under section 4-215, as
110 amended by this act.

111 (c) The secretary shall establish an incentive program for nonprofit
112 providers of human services that shall (1) allow providers who
113 otherwise meet contractual requirements to retain any savings realized
114 by the providers from the contracted cost for services, and (2) provide
115 that future contracted amounts from the state for the same types of
116 services are not reduced solely to reflect savings achieved in previous
117 contracts by such providers. For purposes of this subsection, "nonprofit
118 providers of human services" includes, but is not limited to, nonprofit
119 providers of services to persons with intellectual, physical or mental
120 disabilities or autism spectrum disorder. Any nonprofit provider of
121 human services allowed to retain savings under the incentive program
122 shall submit a report to the secretary on how excess funds were
123 reinvested to strengthen quality, invest in deferred maintenance and
124 make asset improvements.

125 Sec. 5. Section 4-217 of the general statutes is repealed and the
126 following is substituted in lieu thereof (*Effective July 1, 2023*):

127 (a) [Not later than March 1, 1994, the] The Secretary of the Office of
128 Policy and Management shall establish standards for state agencies to
129 follow in entering into personal service agreements. The standards shall
130 include, but not be limited to, provisions for: (1) Evaluating the need to
131 use a personal service agreement, (2) developing a request for proposals
132 or any other form of competitive negotiation, (3) advertising for
133 personal service contractors, (4) evaluating submitted proposals, (5)
134 selecting a personal service contractor, including compliance with
135 section 4a-60g, (6) systematically monitoring and evaluating personal
136 service contractor performance, (7) documenting the entire process for
137 selecting and managing personal service contractors and (8) carrying
138 out any other aspect of such process.

139 (b) Not later than May 1, 1994, each state agency shall: (1) Establish
140 written procedures for implementing the standards established by the
141 secretary under subsection (a) of this section, and (2) submit such
142 procedures to the secretary for his approval. If the secretary disapproves
143 an agency's procedures he shall return the procedures to the agency

144 with recommendations for revisions. On and after July 1, 1994, no state
145 agency may execute a personal service agreement unless the secretary
146 has approved procedures established by the agency under this section.

147 (c) A request for proposals issued under section 4-214, as amended
148 by this act, 4-215, as amended by this act, or 4-216, as amended by this
149 act, shall include, but not be limited to, an outline of the work to be
150 performed, the required minimum qualifications for the personal
151 service contractor, criteria for review of proposals by the state agency,
152 the format for proposals and the deadline for submitting proposals.
153 Each state agency which prepares a request for proposals shall establish
154 a screening committee to evaluate the proposals submitted in response
155 to the request for proposals. The screening committee shall rank all
156 proposals in accordance with the criteria set forth in the request for
157 proposals and shall submit the names of the top three proposers to the
158 executive head of the agency, who shall select the personal service
159 contractor from among such names.

160 Sec. 6. Section 4-219 of the general statutes is repealed and the
161 following is substituted in lieu thereof (*Effective July 1, 2023*):

162 No state agency may, without the approval of the secretary, execute
163 (1) an amendment to a personal service agreement, which agreement
164 has an original cost of more than fifty thousand dollars, or (2) an
165 amendment to any other personal service agreement, which
166 amendment (A) has a cost of one hundred per cent or more of the cost
167 of the original agreement, (B) increases the cost of the agreement to more
168 than fifty thousand dollars, [(C) extends the terms of the agreement
169 beyond a one-year period] or [(D)] (C) is the second or subsequent
170 amendment to the agreement. The secretary shall approve or
171 disapprove a proposed amendment [within] not later than fifteen
172 business days after receiving it and any necessary supporting
173 information, provided if the secretary does not act within such fifteen-
174 day period the application shall be deemed to have been approved.

175 Sec. 7. Section 4a-50 of the general statutes is repealed and the

176 following is substituted in lieu thereof (*Effective July 1, 2023*):

177 When used in this chapter, unless the context indicates a different
178 meaning:

179 (1) "State agency" includes any officer, department, board, council,
180 commission, institution or other agency of the Executive Department of
181 the state government;

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

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

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

196 (5) "Competitive negotiation" means (A) a procedure for contracting
197 for supplies, materials, equipment or contractual services, in which [(A)]
198 proposals are solicited from qualified suppliers by a request for
199 proposals, regardless of the number of responses and [(B)] changes may
200 be negotiated in proposals and prices after being submitted, or (B) any
201 other open and fair process in which all qualified suppliers have an
202 equal opportunity to be selected to provide supplies, materials,
203 equipment or contractual services;

204 (6) "Bidder" means a person, firm or corporation submitting a
205 competitive bid in response to a solicitation or any other form of

206 competitive negotiation; and

207 (7) "Proposer" means a person, firm or corporation submitting a
208 proposal in response to a request for proposals or any other form of
209 competitive negotiation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	4-212
Sec. 2	<i>July 1, 2023</i>	4-214
Sec. 3	<i>July 1, 2023</i>	4-215
Sec. 4	<i>July 1, 2023</i>	4-216
Sec. 5	<i>July 1, 2023</i>	4-217
Sec. 6	<i>July 1, 2023</i>	4-219
Sec. 7	<i>July 1, 2023</i>	4a-50

Statement of Purpose:

To redefine competitive negotiation and permit its use for the purchase or acquisition of services by a state agency and increase the thresholds for which personal service agreements are subject to competitive negotiation or subject to approval of the Office of Policy and Management.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]