



General Assembly

Raised Bill No. 1107

January Session, 2023

LCO No. 4610



Referred to Committee on HIGHER EDUCATION AND
EMPLOYMENT ADVANCEMENT

Introduced by:
(HED)

***AN ACT 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. Subsections (m) and (n) of section 10a-151b of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

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

9 (n) The state, through the chief executive officer of a constituent
10 unit, may purchase equipment, supplies, materials and services from a
11 person who has a contract to sell such property or services to a federal
12 agency, another state government, another constituent unit, political
13 subdivision of this state, nonprofit organization or private or public

14 purchasing consortium, in accordance with the terms and conditions of
15 such contract.

16 Sec. 2. Subsections (b) and (c) of section 10a-151b of the general
17 statutes are repealed and the following is substituted in lieu thereof
18 (*Effective October 1, 2023*):

19 (b) Except as provided in subsection (c) of this section, purchases
20 made pursuant to this section shall be based, when possible, on
21 competitive bids or competitive negotiation. Such chief executive
22 officer shall solicit competitive bids or proposals by sending notice to
23 prospective suppliers and by posting notice on a public bulletin board
24 in such officer's office. Such notice shall contain a notice of state
25 contract requirements pursuant to section 4a-60. Each bid or proposal
26 shall be kept sealed until opened publicly at the time stated in the
27 notice soliciting such bid or proposal. Sealed bids or proposals shall
28 include bids or proposals sealed within an envelope or maintained
29 within a safe and secure electronic environment until such time as they
30 are publicly opened. If the amount of the expenditure is estimated to
31 exceed [fifty] one hundred thousand dollars, not later than five
32 calendar days before the final date of submitting competitive bids or
33 proposals, competitive bids or proposals shall be solicited by public
34 notice posted on the Internet. All purchases [fifty] one hundred
35 thousand dollars or less in amount shall be made in the open market,
36 but shall, when possible, be based on at least three competitive
37 quotations. If desired by the constituent unit, competitive quotations
38 may include quotations submitted to the constituent unit within a safe
39 and secure electronic environment. The constituent unit shall not
40 refuse to consider a bid, proposal or quotation because it is not
41 submitted electronically.

42 (c) Competitive bidding or competitive negotiation is not required
43 in the case of (1) minor purchases of [ten] twenty-five thousand dollars
44 or less in amount, (2) purchases made pursuant to subsection (k) of
45 this section, (3) emergency purchases, (4) agricultural purchases of
46 dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs,

47 fruits, vegetables or other farm products in an amount of fifty
48 thousand dollars or less, or (5) a qualified contract, as described in
49 subdivision (1) of subsection (b) of section 10a-151f, that is entered into
50 pursuant to the policies adopted by either the Board of Trustees of The
51 University of Connecticut or the Board of Regents for Higher
52 Education pursuant to section 10a-151g. Whenever an emergency
53 exists by reason of extraordinary conditions or contingencies that
54 could not reasonably be foreseen and guarded against, or because of
55 unusual trade or market conditions, the chief executive officer may, if
56 it is for the best interest of the state, make purchases without
57 competitive bidding. A statement of all emergency purchases made
58 under the provisions of this subsection shall be set forth in the annual
59 report of the chief executive officer. The chief executive officer, when
60 making an agricultural purchase in accordance with subdivision (4) of
61 this subsection, shall give preference to dairy products, poultry, farm-
62 raised seafood, beef, pork, lamb, eggs, fruits, vegetables or other farm
63 products grown or produced in this state when such products, poultry,
64 farm-raised seafood, beef, pork, lamb, eggs, fruits or vegetables are
65 comparable in cost to other dairy products, poultry, eggs, fruits or
66 vegetables being considered for purchase by the chief executive officer
67 that have not been grown or produced in this state.

68 Sec. 3. Subdivision (9) of subsection (c) of section 10a-109n of the
69 general statutes is repealed and the following is substituted in lieu
70 thereof (*Effective from passage*):

71 (9) (A) The university shall not enter into a construction manager at-
72 risk project delivery contract that does not provide for a maximum
73 guaranteed price for the cost of construction which shall be
74 determined not later than the time of the receipt and approval by the
75 university of the trade contractor bids. Each construction manager at-
76 risk shall invite bids and give notice of opportunities to bid on project
77 elements, by posting any such invitation or notice on the State
78 Contracting Portal. Each bid shall be kept sealed until opened publicly
79 at the time and place as set forth in the notice soliciting such bid. The

80 construction manager at-risk shall, after consultation with and
81 approval by the university, award any related contracts for project
82 elements to the responsible qualified contractor, who shall be
83 prequalified pursuant to section 4a-100, submitting the lowest bid in
84 compliance with the bid requirements, provided [(A)] (i) the
85 construction manager at-risk shall not be eligible to submit a bid for
86 any such project element, and [(B)] (ii) construction shall not begin
87 prior to the determination of the maximum guaranteed price, except (I)
88 for the project elements of site preparation and demolition that have
89 been previously put out to bid and awarded, and (II) for the project
90 elements of site preparation, demolition, public utility installation and
91 connections and building envelope components, including the roof,
92 doors, windows and exterior walls, as provided in subparagraph (B) of
93 this subdivision.

94 (B) Construction may begin prior to the determination of the
95 maximum guaranteed price for the project elements of site
96 preparation, demolition, public utility installation and connections and
97 building envelope components, including the roof, doors, windows
98 and exterior walls, provided (i) the project involves the renovation of
99 an existing building or facility; (ii) the project element or elements
100 involved in such early work have been previously put out to bid and
101 awarded; and (iii) the total cost of construction of the early work does
102 not exceed twenty-five per cent of the estimated cost of construction
103 for the entire project.

104 (C) If such project involves the renovation of an existing building or
105 facility that will be performed in multiple phases while such building
106 or facility remains occupied, the university may enter into a
107 construction manager at-risk project delivery contract that provides for
108 the maximum guaranteed price to be determined for each phase of the
109 project, prior to beginning each such phase, provided each party to the
110 contract complies with all of the requirements of subparagraph (A) of
111 this subdivision, except the timing of the determination of the
112 maximum guaranteed price set forth in clause (ii) of said

113 subparagraph.

114 Sec. 4. Subdivisions (2) to (4), inclusive, of subsection (c) of section
115 10a-109n of the general statutes are repealed and the following is
116 substituted in lieu thereof (*Effective October 1, 2023*):

117 (2) (A) Except as provided in subparagraph [(B)] (D) of this
118 subdivision, any total cost basis contract or other contract for the
119 construction of a university project [which] that is estimated to cost
120 more than five hundred thousand dollars, shall be publicly let by the
121 university. The university shall give notice to contractors interested in
122 [prequalifying to submit] submitting a project proposal or bid, by
123 posting any such notice on the university web site and on the State
124 Contracting Portal. The notice to [prequalify] contractors shall contain
125 (i) the requirement that contractors be prequalified pursuant to section
126 4a-100 or subparagraph (B) of this subdivision, as applicable to such
127 contract, (ii) a statement of the time and place where the responses
128 shall be received, and (iii) such additional information as the
129 university deems appropriate. Upon receipt of such responses, the
130 university shall select [each] any contractor who (I) to the extent
131 required pursuant to the provisions of section 4b-91, has been
132 prequalified pursuant to section 4a-100, [and] (II) has shown itself able
133 to post surety bonds required by such contract, [and] (III) has
134 [demonstrated that it possesses the financial, managerial and technical
135 ability and the integrity necessary and without conflict of interest for
136 faithful and efficient performance of the work provided for therein.] no
137 conflict of interest in the performance of work required by such
138 contract, and (IV) for any such contract that is estimated to cost more
139 than one million dollars, has been prequalified by the university
140 pursuant to subparagraph (B) of this subdivision.

141 (B) For any contract subject to the provisions of subparagraph (A) of
142 this subdivision that is estimated to cost more than one million dollars,
143 the [The] university shall [evaluate] prequalify each contractor by
144 evaluating whether [each] (i) such contractor (I) has demonstrated that
145 it possesses the financial, managerial and technical ability and integrity

146 necessary to faithfully and efficiently perform work for the university
147 in accordance with the requirements set forth in the prequalification
148 application issued by the university, and (II) is responsible and
149 qualified based on its experience with projects similar to that for which
150 the bid or proposal is to be submitted and based on objective written
151 criteria included in the [application to request prequalification with
152 respect to such contract. The university shall also consider whether a
153 contractor, and] prequalification application issued by the university,
154 and (ii) any subcontractor on the contractor's previous projects, has
155 been in compliance with the provisions of part III of chapter 557 and
156 chapter 558 during the previous five calendar years. The university, in
157 its discretion, may include additional qualification requirements in the
158 notice posted pursuant to subparagraph (A) of this subdivision.

159 (C) The university may issue a confirmation of prequalification for
160 contracts subject to the provisions of this subdivision to any contractor
161 who meets the requirements set forth in subparagraph (B) of this
162 subdivision. Such confirmation of prequalification shall be effective for
163 one year from the date of issuance and, upon receipt of a completed
164 renewal application and any other materials as prescribed by the
165 university, may be renewed for a period not exceeding two years.

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

173 (3) [The university shall thereafter give notice to those so
174 prequalified by the university pursuant to subdivision (2) of this
175 section of the time and place where the public letting shall occur and
176 shall include in such notice such information of the work required as
177 appropriate.] Each bid or proposal shall be kept sealed until opened
178 publicly at the time and place as set forth in the notice soliciting such

179 bid or proposal. The university shall not award any construction
180 contract, including, but not limited to, any total cost basis contract,
181 after public letting, except to the responsible qualified contractor,
182 submitting the lowest bid or proposal in compliance with the bid or
183 proposal requirements of the solicitation document. The university
184 may, however, waive any informality in a bid or proposal, and may
185 either reject all bids or proposals and again advertise for bids or
186 proposals or interview at least three responsible qualified contractors
187 and negotiate and enter into with any one of such contractors that
188 construction contract which is both fair and reasonable to the
189 university.

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

195 Sec. 5. Subdivision (10) of subsection (c) of section 10a-109n of the
196 general statutes is repealed and the following is substituted in lieu
197 thereof (*Effective October 1, 2023*):

198 (10) If the university designates a project as suitable for a design-
199 build contract, the university may enter into a single contract with a
200 design-builder recommended by a selection panel and selected by the
201 university. The university shall give notice of such project and
202 specifications for such project by posting such notice on the State
203 Contracting Portal. The university shall establish a selection panel for
204 each project to score the qualifications and past performance of each
205 design-builder who submits a competitive proposal to the university
206 for such project. The selection panel shall score the qualifications and
207 past performance of each design-builder using a predetermined
208 scoring method developed by the university and provided to each
209 design-builder in advance of such design-builder's development of the
210 competitive proposal. The selection panel's scoring method may be
211 unique to each project, but shall consist of combining the score of each

212 design-builder's qualifications and past performance and evaluating
 213 the technical merit of the competitive proposal and each design-
 214 builder's projected project cost. The design-build contract shall (A)
 215 include, but not be limited to, such project elements as permitting,
 216 engineering, design, construction and, if applicable, site acquisition,
 217 and (B) be based on the competitive proposal submitted by the design-
 218 builder that is selected by the university. No design-build contract for
 219 which the total cost is estimated to be more than [five hundred
 220 thousand dollars] the amount set forth in subdivision (2) of subsection
 221 (a) of section 4b-91 may be awarded to a design-builder who is not
 222 prequalified for the project in accordance with section 4a-100. Such
 223 design-build contracts shall state the responsibilities of the design-
 224 builder to deliver a completed and acceptable project on a date certain
 225 and the maximum costs of the project and, if applicable, as a separate
 226 item, the cost of any site acquisition. The university shall determine all
 227 other requirements and conditions for such competitive proposals,
 228 selection of a design-builder and other awards and shall have sole
 229 responsibility for all other aspects of such design-build contracts.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	10a-151b(m) and (n)
Sec. 2	<i>October 1, 2023</i>	10a-151b(b) and (c)
Sec. 3	<i>from passage</i>	10a-109n(c)(9)
Sec. 4	<i>October 1, 2023</i>	10a-109n(c)(2) to (4)
Sec. 5	<i>October 1, 2023</i>	10a-109n(c)(10)

HED

Joint Favorable C/R

GAE