



General Assembly

Substitute Bill No. 1184

January Session, 2023



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2 repealed and the following is substituted in lieu thereof (*Effective from*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 Subsection (f) of section 4a-57 of the general statutes is repealed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 Section 4d-32 of the general statutes is repealed and the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.*