



Senate

General Assembly

File No. 518

January Session, 2021

Substitute Senate Bill No. 1015

Senate, April 19, 2021

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 CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND MODERNIZING REAL ESTATE AND CONSTRUCTION MANAGEMENT.

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

1 Section 1. Subsection (k) of section 4a-100 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July 1,*
3 *2021*):

4 (k) (1) Any substantial evidence of fraud in obtaining or maintaining
5 prequalification or any materially false statement in the application []
6 or update statement [or update bid statement] may, in the discretion of
7 the awarding authority, result in termination of any contract awarded
8 the contractor by the awarding authority. The awarding authority shall
9 provide written notice to the commissioner of such false statement not
10 later than thirty days after discovering such false statement. The
11 commissioner shall provide written notice of such false statement to the
12 Commissioner of Consumer Protection and the president of The
13 University of Connecticut not later than thirty days after discovering
14 such false statement or receiving such notice.

15 (2) The commissioner shall deny or revoke the prequalification of any
16 contractor or substantial subcontractor if the commissioner finds that
17 the contractor or substantial subcontractor, or a principal or key
18 personnel of such contractor or substantial subcontractor, within the
19 past five years (A) has included any materially false statement in a
20 prequalification application [,] or update statement, [or update bid
21 statement,] (B) has been convicted of, entered a plea of guilty or nolo
22 contendere for, or admitted to, a crime related to the procurement or
23 performance of any public or private construction contract, or (C) has
24 otherwise engaged in fraud in obtaining or maintaining
25 prequalification. Any revocation made pursuant to this subsection shall
26 be made only after an opportunity for a hearing. Any contractor or
27 substantial subcontractor whose prequalification has been revoked
28 pursuant to this subsection shall be disqualified for a period of two years
29 after which the contractor or substantial subcontractor may reapply for
30 prequalification, except that a contractor or substantial subcontractor
31 whose prequalification has been revoked on the basis of conviction of a
32 crime or engaging in fraud shall be disqualified for a period of five years
33 after which the contractor or substantial subcontractor may reapply for
34 prequalification. The commissioner shall not prequalify a contractor or
35 substantial subcontractor whose prequalification has been revoked
36 pursuant to this subdivision until the expiration of said two-year, five-
37 year, or other applicable disqualification period and the commissioner
38 is satisfied that the matters that gave rise to the revocation have been
39 eliminated or remedied.

40 Sec. 2. Subsection (n) of section 4a-100 of the general statutes is
41 repealed and the following is substituted in lieu thereof (*Effective July 1,*
42 *2021*):

43 (n) The commissioner shall establish an update statement for use by
44 contractors and substantial subcontractors for purposes of renewing or
45 upgrading a prequalification certificate [and an update bid statement]
46 for purposes of submitting a bid pursuant to section 4b-91, as amended
47 by this act.

48 Sec. 3. Subsections (d) and (e) of section 4b-91 of the general statutes
49 are repealed and the following is substituted in lieu thereof (*Effective July*
50 *1, 2021*):

51 (d) Each bid submitted for a contract described in subsection (c) of
52 this section shall include an update [bid] statement in such form as the
53 Commissioner of Administrative Services prescribes and, if required by
54 the public agency soliciting such bid, a copy of the prequalification
55 certificate issued by the Commissioner of Administrative Services. The
56 form for such update [bid] statement shall provide space for information
57 regarding all projects completed by the bidder since the date the
58 bidder's prequalification certificate was issued or renewed, all projects
59 the bidder currently has under contract, including the percentage of
60 work on such projects not completed, the names and qualifications of
61 the personnel who will have supervisory responsibility for the
62 performance of the contract, any significant changes in the bidder's
63 financial position or corporate structure since the date the certificate was
64 issued or renewed, any change in the contractor's qualification status as
65 determined by the provisions of subdivision (6) of subsection (c) of
66 section 4a-100 and such other relevant information as the Commissioner
67 of Administrative Services prescribes. [Any bid submitted without a
68 copy of the prequalification certificate, if required by the public agency
69 soliciting such bid, and an update bid statement shall be deemed
70 invalid.] Any public agency that accepts a bid submitted without a copy
71 of such prequalification certificate, if required by such public agency
72 soliciting such bid, and an update [bid] statement, may become
73 ineligible for the receipt of funds related to such bid, except the public
74 agency soliciting such bids may allow bidders no more than two
75 business days after the opening of bids to submit a copy of the
76 prequalification certificate, if required by such public agency, and an
77 update statement.

78 (e) Any person who bids on a contract described in subsection (c) of
79 this section shall certify under penalty of false statement at the
80 conclusion of the bidding process that the information in the bid is true,
81 that there has been no substantial change in the bidder's financial

82 position or corporate structure since the bidder's most recent
83 prequalification certificate was issued or renewed, other than those
84 changes noted in the update [bid] statement, and that the bid was made
85 without fraud or collusion with any person.

86 Sec. 4. Section 4b-92 of the general statutes is repealed and the
87 following is substituted in lieu thereof (*Effective July 1, 2021*):

88 As used in this chapter and except as otherwise provided, "lowest
89 responsible and qualified bidder" means the bidder who is prequalified
90 pursuant to section 4a-100, and whose bid is the lowest of those bidders
91 possessing the skill, ability and integrity necessary to faithful
92 performance of the work based on objective criteria considering past
93 performance and information contained in the update [bid] statement
94 submitted pursuant to section 4b-91, as amended by this act. Essential
95 information in regard to such qualifications shall be submitted with the
96 bid in such form as the awarding authority may require by specification
97 in the bid documents and on the bid form. Every general bid shall be
98 accompanied by a bid bond or a certified check in an amount which shall
99 be ten per cent of the bid, provided no such bid bond or certified check
100 shall be required in relation to any general bid in which the total
101 estimated cost of labor and materials under the contract with respect to
102 which such general bid is submitted is less than fifty thousand dollars.
103 Failure to execute a contract awarded as specified and bid shall result in
104 the forfeiture of such bid bond or certified check. In considering past
105 performance the awarding authority shall evaluate the skill, ability and
106 integrity of bidders in terms of the bidders' fulfillment of contract
107 obligations and of the bidders' experience or lack of experience with
108 projects of the nature and scope of the project for which the bids are
109 submitted.

110 Sec. 5. Subsection (e) of section 4b-21 of the general statutes is
111 repealed and the following is substituted in lieu thereof (*Effective July 1,*
112 *2021*):

113 (e) After receiving notification from the secretary that such land,
114 improvement or interest may be treated as surplus, the Commissioner

115 of Administrative Services shall offer to convey such land, improvement
116 or interest to the municipality in which the land, improvement or
117 interest is located, including, but not limited to, by selling, leasing,
118 exchanging or entering into agreements concerning such land,
119 improvement or interest, provided (1) prior to such conveyance, the
120 municipality by vote of its legislative body accepts such conveyance,
121 and (2) a resolution of such municipal action, verified by the clerk of the
122 municipality, is delivered to the Commissioner of Administrative
123 Services not more than [one hundred twenty] sixty days after receiving
124 notice from the commissioner regarding the proposed conveyance. If
125 the municipality fails to deliver such resolution to the commissioner
126 within such [one-hundred-twenty-day] sixty-day period, the
127 municipality shall be deemed to have declined the proposed
128 conveyance, provided the commissioner may extend the [one-hundred-
129 twenty-day period] sixty-day deadline by not more than an additional
130 [sixty] thirty days. The municipality shall waive all rights to purchase
131 the land, improvement, interest or part thereof if the municipality
132 declines or is deemed to have declined the conveyance of such land,
133 improvement, interest or part thereof.

134 Sec. 6. Section 4b-22a of the general statutes is repealed and the
135 following is substituted in lieu thereof (*Effective July 1, 2021*):

136 (a) Notwithstanding any provision of the general statutes, the
137 Commissioner of Administrative Services may (1) grant easements with
138 respect to land owned by the state to a public service company, as
139 defined in section 16-1, the owner of a district heating and cooling
140 system, a municipal water or sewer authority or a telecommunications
141 company, as defined in section 16-1, subject to the approval of the Office
142 of Policy and Management, the agency having supervision of the care
143 and control of such land and the State Properties Review Board, and (2)
144 acquire easements with respect to land not owned by the state in
145 connection with a Department of Administrative Services project,
146 subject to the approval of the State Properties Review Board. No
147 easement granted under subdivision (1) of this section shall be for the
148 disposal or storage of radioactive or hazardous waste materials. The

149 commissioner shall provide notice of any easement granted under said
150 subdivision to the chief executive official of the municipality, and the
151 members of the General Assembly representing the municipality, in
152 which the land is located.

153 (b) Notwithstanding any provision of the general statutes, the
154 Commissioner of Administrative Services may (1) grant rights-of-way
155 or other easements with respect to land owned by the state to the federal
156 government or any political subdivision of the state for public purposes
157 if the commissioner finds that such purposes are not in conflict with the
158 public interest, subject to the approval of the Office of Policy and
159 Management, the agency having supervision of the care and control of
160 such land, and the State Properties Review Board, and (2) acquire
161 easements with respect to land owned by the federal government or any
162 political subdivision of the state for public purposes if the commissioner
163 finds that such purposes do not conflict with the public interest, subject
164 to the approval of the State Properties Review Board.

165 Sec. 7. Section 4b-53 of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective July 1, 2021*):

167 (a) For purposes of this section, the following terms have the
168 following meanings: (1) "State building" means any building or facility
169 owned or leased by the state of Connecticut and open to the public or
170 intended for such use, exclusive of any shed, warehouse, garage,
171 building of a temporary nature or building located on the grounds of a
172 correctional institution; (2) "proposal development expenses" means the
173 cost of preparing a detailed drawing, model or plan as determined by
174 the Department of Economic and Community Development [; and] or
175 the Department of Administrative Services, in accordance with
176 subsections (e) and (f) of this section; (3) "work of art" means an
177 integrated work of art or a nonintegrated work of art, but excludes
178 landscape architecture or landscape gardening; (4) "integrated work of
179 art" means art work which is to be an integrated part of such state
180 building, including, but not limited to, fresco, mosaic, sculpture and
181 other architectural embellishment or functional art created by a

182 professional artist, artisan or craftsman; [,] and (5) "nonintegrated
183 work of art" means any work of visual art which is not to be an
184 integrated part of such state building, including, but not limited to, a
185 drawing, painting, sculpture, mosaic, photograph, work of calligraphy
186 or work of graphic art or mixed media. ["Work of art" as used in this
187 section shall not include landscape architecture or landscape
188 gardening.]

189 (b) The State Bond Commission, in the allocation of proceeds of state
190 bonds for purposes of construction, reconstruction or remodeling of any
191 state building, shall allocate for works of art, with respect to each such
192 project and for the purposes of subsection (c) of this section, an amount
193 from such proceeds not less than one per cent of the total estimated cost
194 of such construction, reconstruction or remodeling, exclusive of (1) the
195 cost of any land acquisition, (2) any nonconstruction costs including the
196 cost of such work of art, and (3) any augmentations to such cost,
197 provided any such allocation for work of art as provided in this section
198 must be approved, prior to authorization of such allocation by the State
199 Bond Commission, by the Commissioner of Administrative Services in
200 consultation with the Department of Economic and Community
201 Development. Each such allocation shall specify the maximum amount,
202 if any, that may be spent on integrated works of art and the maximum
203 amount, if any, that may be spent on nonintegrated works of art, for
204 each such project. Such allocation may be used in accordance with
205 subsections (e) and (f) of this section, to reimburse any artist, artisan,
206 craftsman or person who creates a work of art, for proposal
207 development expenses when the Department of Economic and
208 Community Development or the Department of Administrative
209 Services requests such proposal development or to compensate persons
210 who, at the request of the Department of Economic and Community
211 Development or the Department of Administrative Services, determine
212 whether such works of art require proposal development.

213 (c) There is established within the General Fund a state building
214 works of art account, which shall be a separate, nonlapsing account. The
215 moneys within said account shall be used (1) for the purchase of works

216 of art from distinguished Connecticut artists, which shall be placed on
217 public view in state buildings, (2) to establish a bank of major works of
218 art, from which individual works of art may be circulated among state
219 buildings, public art museums and nonprofit galleries, and (3) for repair
220 of all works of art acquired under this section. The Department of
221 Economic and Community Development, in consultation with the
222 Commissioner of Administrative Services, shall adopt regulations in
223 accordance with the provisions of chapter 54, which shall (A) indicate
224 the portion of the one per cent allocation under subsection (b) of this
225 section, up to one quarter of such allocation, which shall be deposited in
226 the General Fund and credited to said account, (B) set forth the manner
227 in which the moneys in said account shall be allocated and expended
228 for the purposes of this subsection, and (C) establish procedures to
229 ensure accountability in maintaining the integrity of such bank of works
230 of art.

231 (d) There is established a subaccount within the state buildings works
232 of art account, established pursuant to subsection (c) of this section, to
233 be known as the "maintenance account" to be used solely for the
234 conservation, repair and cleaning of [artworks] works of art
235 commissioned and purchased for state buildings pursuant to this
236 section. The Department of Economic and Community Development, in
237 the case of nonintegrated works of art, or the Department of
238 Administrative services, in the case of integrated works of art, shall
239 determine what percentage of the one per cent allocation pursuant to
240 subsection (b) of this section, up to ten per cent of such allocation, to
241 credit to said subaccount.

242 (e) The Department of Economic and Community Development
243 shall, with respect to a nonintegrated work of art in any project under
244 subsection (b) of this section, be responsible for the selection of any
245 artist, artisan or craftsperson, review of any design or plan, and
246 execution, completion, acceptance and placement of such work of art. [,
247 provided any work of art to be located in any building under the
248 supervision, security, utilization and control of the Joint Committee on
249 Legislative Management shall be approved by said committee. The

250 Commissioner of Administrative Services, in consultation with said]
 251 Said department [,] shall (1) [shall] be responsible for the contractual
 252 arrangements with any such artist, artisan or craftsman, and (2) [shall]
 253 adopt regulations concerning implementation of the purposes of
 254 [subsection (b) of this section and] this subsection.

255 (f) The Department of Administrative Services shall, with respect to
 256 integrated works of art in any project under subsection (b) of this
 257 section, be responsible for the selection of any artist, artisan or
 258 craftsperson, review of any design or plan, and execution, completion,
 259 acceptance and placement of such work of art. Said department shall (1)
 260 be responsible for the contractual arrangements with any such artist,
 261 artisan or craftsman, and (2) adopt regulations in accordance with the
 262 provisions of chapter 54 concerning implementation of the purposes of
 263 subsection (b) of this section and this subsection.

264 (g) Any work of art to be located in any building under the
 265 supervision, security, utilization and control of the Joint Committee on
 266 Legislative Management shall be approved by said committee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	4a-100(k)
Sec. 2	July 1, 2021	4a-100(n)
Sec. 3	July 1, 2021	4b-91(d) and (e)
Sec. 4	July 1, 2021	4b-92
Sec. 5	July 1, 2021	4b-21(e)
Sec. 6	July 1, 2021	4b-22a
Sec. 7	July 1, 2021	4b-53

GAE Joint Favorable Subst.

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.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect
Various State Agencies	GF - Potential Savings

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill authorizes public contracting agencies to allow bidders up to two business days after a bid opening to submit their prequalification certificate and an update bid statement. Current law disqualifies a bid if the update bid statement or applicable prequalification certificate is missing.

This bill may result in a savings to the state as it should increase the number of bids the state receives.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1015*****AN ACT CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND MODERNIZING REAL ESTATE AND CONSTRUCTION MANAGEMENT.*****SUMMARY**

This bill makes the following changes in the statutes governing the Department of Administrative Services (DAS):

1. eliminates a provision invalidating any public works contracts bid submitted without a required update bid statement or prequalification certificate, instead allowing agencies to permit bidders up to two business days post-bid to submit the missing documents (§3);
2. removes references to "update bid statement" and, where necessary, replaces them with "update statement" (§§ 1-4);
3. reduces by half the (a) amount of time a municipality has to notify DAS of its intention to acquire surplus state property and (b) maximum extension that DAS may grant on this deadline (§ 5);
4. allows DAS to grant easements to, and acquire easements from, the federal government or a subdivision of the state subject to certain approvals (§ 6); and
5. with respect to art in state buildings, (a) transfers authority over art that is integrated in the building structure from the Department of Economic and Community Development (DECD) to DAS, (b) gives DECD full authority over non-integrated art, and (c) requires the State Bond Commission to specify the maximum amount that may be spent on each type of artwork when allocating for them (§ 7).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2021

§§ 1-4 — STATE CONTRACTING BID UPDATES

The bill authorizes public contracting agencies to allow bidders up to two business days after a bid opening to submit their prequalification certificate, if required, and an “update statement” (see below). Current law disqualifies a bid if the update bid statement or applicable prequalification certificate is missing.

The bill replaces statutory references to the term “update bid statement” with “update statement.” Current law requires the DAS commissioner to establish (1) an update statement for contractors and substantial subcontractors to use when renewing or upgrading their prequalification certificate and (2) an update bid statement that bidders on a public works contract must use to provide certain information about changes since the bidder's prequalification certificate was issued or renewed (e.g., projects currently under contract and significant changes in financial position). Under the bill, this information must be provided in the update statement, which serves both statements’ purposes.

§ 5 — SURPLUS STATE PROPERTY

The bill reduces, from 120 days to 60 days, the amount of time a municipality has to notify DAS of its intention to acquire surplus state property. It also reduces, from 60 days to 30 days, the maximum extension that DAS may grant to municipalities on this deadline.

Under current law, once a state-owned property is determined to be surplus, DAS must offer the property (via sale, lease, or other arrangement) to the municipality in which it is located. If the municipality declines or is deemed to have declined the property, DAS must comply with notice requirements and obtain the approval of the Office of Policy and Management (OPM), the State Properties Review Board (SPRB), and the Finance, Revenue and Bonding and Government Administration and Elections committees before putting the property

on the open market. (UConn is exempt from this disposition process, as is the Department of Transportation, whose process is governed by CGS § 13a-80.)

§ 6 – EASEMENTS

The bill authorizes the DAS Commissioner to grant easements to, and acquire easements from, the federal government or a political subdivision of the state (e.g., municipality) for public purposes, so long as he (1) determines that such purposes do not conflict with the public interest; (2) receives the approval of the SPRB; and (3) additionally receives approval from OPM and the agency supervising the land's care and control before granting easements.

Under existing law unchanged by the bill, DAS can grant easements on state land to public service companies, owners of district heating and cooling systems, municipal water and sewer authorities, and telecommunications companies. The easements are subject to approval by the controlling agency, OPM, and the SPRB (CGS § 4b-22a).

§ 7 – ART IN STATE BUILDINGS

The bill transfers authority from DECD to DAS over “integrated works of art” in state buildings (i.e., art that is integrated in the building structure), including artist selection and contractual agreements, and requires DAS to adopt regulations about them. It gives DECD full authority over “non-integrated works of art” (currently, DAS is responsible for contractual agreements).

The bill also requires the State Bond Commission to specify the maximum amount of the artwork bond allocation that may be spent on integrated and non-integrated art work. Existing law requires the State Bond Commission to allocate for the purchase of artwork at least 1% from the proceeds of state bonds for constructing or remodeling most state-owned or -leased buildings open to the public (excluding the cost of the land for the buildings, non-construction costs such as architect fees, and any cost increases).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/31/2021)