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**CONNECTICUT CONTRACTING STANDARDS BOARD**

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This report provides an overview of the State Contracting Standards Board and its authority, duties, and responsibilities. The board is an independent Executive Branch agency. It is charged with ensuring the effectiveness and integrity of the state contracting and procurement processes. It has authority over (1) acquisition and management of supplies, services, and construction; (2) state contracting and procurement processes and practices; and (3) contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition of public buildings.

Currently, 10 of the board's 14 members have been appointed, with the governor responsible for three of the four outstanding appointments. The board has yet to hold any meetings, issue any regulations, or recommend any legislation. According to its website, the board anticipates meeting once or twice per month.

This report describes the board's membership, duties, and responsibilities; its oversight role in privatization; and its authority to disqualify and suspend contractors who fail to follow state procurement policies. For a more in-depth description of the board and its functions, see the [summary](#) of Public Act 07-1 (September Special Session), which established the board.

## **MEMBERSHIP**

The governor appoints eight of the 14 board members, including the chairperson; the House speaker and Senate president pro tempore each appoint two; and the Senate and House majority leaders each appoint one. If the governor's party controls both houses of the General Assembly, the six legislative leaders each make one appointment. Each board member's term is coterminous with the term of the member's appointing authority (CGS §§ 4e-2a and 4e-2c).

Additionally, the governor appoints an executive director who serves as an ex-officio, nonvoting member, and the board appoints a chief procurement officer. The chief procurement officer serves a term of up to six years and is responsible for carrying out the board's procurement policies and overseeing procurement by state contracting agencies (CGS § 4e-2).

The Contracting Standards Advisory Council, which must meet at least four times per year, is responsible for recommending to the board improvements to the procurement process. The council consists of the chief procurement officer and representatives of various agencies. A Vendor and Citizen Advisory Panel consisting of gubernatorial and legislative appointees makes recommendations to the board on best practices in state procurement processes and project management (CGS §§ 4e-8 and 4e-9).

## **DUTIES**

Unless otherwise authorized by law, state contracts must be awarded by (1) competitive sealed bidding, (2) competitive sealed proposals, (3) small purchase procedure, (4) sole source procurement, (5) emergency procurement, or (6) waiver of bid or proposal requirement for extraordinary reasons (CGS § 4e-19a).

By June 1, 2010, the board must define these methods and adopt regulations to establish when each method must be used by a state contracting agency, as well as the process and criteria for awarding a contract under each method (CGS § 4e-19b). The board must also:

1. approve a requisition system established by the commissioner of administrative services (CGS § 4e-18);
2. establish provisions, to be included in state contracts that take effect on or after June 1, 2010, to ensure accountability, transparency, and results-based outcomes (CGS § 4e-14);

3. make recommendations regarding the use of information systems in state procurement (CGS § 4e-4d);
4. develop a guide to state statutes and regulations concerning procurement (CGS § 4e-4e);
5. submit legislation to the governor and General Assembly concerning procurement (CGS § 4e-10);
6. assist the secretary of the state, comptroller, treasurer, and attorney general in developing best procurement practices for their respective offices (CGS § 4e-11);
7. conduct triennial audits of state contracting agencies, beginning October 1, 2011 (CGS § 4e-6);
8. develop a procurement and project management training and education program for employees of state contracting agencies (CGS § 4e-5b); and
9. beginning June 1, 2010, rule on appeals that bring procedural claims regarding the solicitation or award of a contract, or the suspension of a contractor, bidder, or proposer (CGS §§ 4e-36 and 4e-37).

## **REGULATIONS**

The board must adopt, by June 1, 2010 (unless otherwise noted), regulations regarding the following:

1. invitations for bids and circumstances under which source selection may be used instead of sealed bidding (CGS § 4e-20);
2. procurements that do not exceed \$50,000 (by January 1, 2010) (CGS § 4e-21);
3. emergency procurements (CGS § 4e-24);
4. procurements for architectural and engineering services, including requirements for errors and omissions insurance (CGS §§ 4e-41 and 4e-43);
5. procurements for consultant services (CGS § 4e-44);

6. procedures for waiving competitive bid and proposal requirements, and for awarding contracts without competition (CGS §§ 4e-22 and 4e-23);
7. the use of cost-reimbursement contracts (CGS § 4e-27);
8. the use of bid security in situations where the price of a contract is estimated to exceed \$500,000 (CGS § 4e-42);
9. contract modifications, change orders, and price adjustments for construction contracts in excess of \$50,000 (CGS § 4e-46);
10. standards for the preparation, maintenance, and content of specifications for supplies, services, and construction required by the state (CGS § 4e-26);
11. submission of accounting system documentation by contractors (CGS § 4e-28);
12. contracts that concern infrastructure facilities (CGS § 4e-45); and
13. application of contracting procedures to each constituent unit of higher education (on or after January 1, 2011) (CGS § 4e-47).

## **PRIVATIZATION OVERSIGHT**

Under CGS § 4e-16, the board has significant authority in overseeing the privatization of state services. Effective January 1, 2010, if a state agency seeks to enter into a contract that privatizes services performed by state employees, it must conduct a cost-benefit analysis and submit to the board a business case for the privatization contract. The board must recommend and implement standards and procedures for the completion and submission of business cases by state contracting agencies and must develop guidelines and procedures for assisting state employees affected by privatization contracts.

A five-member privatization contract committee must review business cases according to a standard set of criteria. It must make a recommendation to the full board, which votes on the business case and reports its evaluation, review, and disposition to the agency that submitted the case. If the contract is estimated to have an annual cost of more than \$150 million or a total cost of more than \$600 million, this report must also be transmitted to the governor, House speaker, Senate president pro tempore, and any collective bargaining unit affected by the contract.

Privatization contracts must be approved by a two-thirds vote of the board if (1) they involve core government functions or (2) the cost-benefit analysis identifies a cost savings of less than 10 percent to the state. State contracting agencies may not solicit bids for privatization contracts unless the board approves the business case. If the contract is estimated to have an annual cost of more than \$150 million or a total cost of more than \$600 million, it must also be approved by the General Assembly before the agency solicits bids. An affected collective bargaining unit may be challenge approved business cases in court by filing a motion to show cause.

Each year, the board must review at least one contracting area that is privatized, and any affected party may petition the board to review an existing privatization contract. If the cost-benefit analysis on an existing contract identifies savings to the state of less than 10 percent, the affected state contracting agency must implement a plan to have state employees provide the service. Alternatively, the agency can develop a business case whereby the privatization contract achieves a cost savings of 10 percent or more.

### **BARRING CONTRACTORS FROM STATE WORK**

Contractors must be pre-qualified by either the Department of Transportation or the Department of Administrative Services to be eligible for major state construction contracts (see OLR report [2007-R-0596](#)). Under CGS §§ 31-57c and 31-57d, the transportation or public works commissioner may disqualify a contractor for up to two years for one or more causes.

Beginning in June 2010, the State Contracting Standards Board may also disqualify contractors (CGS § 4e-34a). The board may disqualify a contractor, for cause, from bidding on or receiving state contracts for up to five years. It must provide reasonable notice and hearing opportunity, and it must consult with the relevant state contracting agency and the attorney general.

Causes for disqualification include:

1. criminal convictions related to public contracts,
2. violations of ethical standards,
3. violations of the terms of a contract,
4. violation of a statute or regulation that is applicable to a contract,

5. poor performance, or
6. receipt of two or more suspensions from state contracting agencies in a 24 month period (CGS § 4e-34b).

Additionally, the board may determine other causes that it deems serious or compelling. These include (1) a contractor's disqualification by another state for cause; (2) fraudulent or criminal conduct by individuals associated with the contractor, such as employees or officers; and (3) the existence of a formal or informal relationship with a disqualified contractor (CGS § 4e-34b(9)).

Beginning October 2011, the law authorizes the board to review and terminate, for cause, existing contracts undertaken by state contracting agencies. Causes for termination include (1) an ethics violation, as determined by the Citizen's Ethics Advisory Board; (2) wanton or reckless disregard of state contracting and procurement processes; and (3) an award process that is fraudulent, collusive, or otherwise criminal, as determined by an investigation by the attorney general's office (CGS § 4e-7a).

The board may also, after 15 days' notice and a hearing, (1) restrict or terminate the authority of an employee of a state contracting agency to enter into contracts or (2) restrict or terminate the contracting authority of the agency itself. Removal of contracting authority occurs when the board, by a two-thirds vote, determines that an agency or employee "failed to comply with statutory contracting and procurement requirements, and evidenced a reckless disregard for applicable procedures and policy" (CGS §§ 4e-7b and 4e-7c).

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