



Agency Legislative Proposal - 2015 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

100214_BOR_MinorRevisions

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency:

Board of Regents for Higher Education

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Title of Proposal

AAC Minor Revisions to the Higher Education Statutes

Statutory Reference: 1-210, 4-38c, 4a-52a, 4a-52b, 4a-64, 4b-51, 4b-52, 4b-91, 4e-47, 10a-6b, 10a-151b

Proposal Summary

To make minor and technical revisions to the higher education statutes

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

Please see the attachment to this document which explains the rationale behind each individual proposed change.

- **Origin of Proposal** **XXX New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*



PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Date Contacted: Approve of Proposal ___ YES ___ NO ___ Talks Ongoing
Summary of Affected Agency's Comments
Will there need to be further negotiation? ___ YES ___ NO
Agency Name: Agency Contact (name, title, phone): Date Contacted: Approve of Proposal ___ YES ___ NO ___ Talks Ongoing
Summary of Affected Agency's Comments
Will there need to be further negotiation? ___ YES ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)
State
Federal
Additional notes on fiscal impact



- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

There are no impacts to policy or programming associated with these changes.

The attached supplement contains fully drafted language for each proposal.

INDEX

Contracting Authority Clarification	1, 3-14
FOIA/FERPA Clarification	1
BOR as an Executive Department	1-2
Accountability Report Date Change	2

Board of Regents for Higher Education
Minor and Technical Revisions
All proposals effective July 1, 2015

1. **Proposal:** Modify several statutes in Titles 4a, 4b, 4e, and 10a to conform them to current contracting practice.
Language: Please see pages 3-14 for language, vetted previously by OPM toward the end of the 2014 legislative session. Approved by HED committee leaders. Held up by Sen. Boucher questions.
Rationale: Though the BOR is not designated as a constituent unit under Sec. 10a-1, it does execute contracts as though it were a constituent unit (Contracting authority is a direct benefit of being a constituent unit under 10a-1). These contracts are technically executed 'on behalf of' member institutions and not in the BOR's own right. With agreement and understanding through the Attorney General's office, these contracts are accepted. The attached language formalizes the BOR's ability to contract without labeling the organization a 'constituent unit,' a label opposed by current HED committee leadership. Moving forward, the BOR central office will continue to seek being named as a constituent unit, as the vast majority of the functions it performs replace the need for those functions at the institutional level.

2. **Proposal:** Modify for clarity CGS Sec. 1-210(b)(17) to clarify the absolute nature of the Federal Educational Rights Privacy Act (FERPA) exemption to the state Freedom of Information Act.
Language: (17) Educational records which are [not] subject to [disclosure under] the Family Educational Rights and Privacy Act, 20 USC 1232g;
Rationale: BOR wants to remove any ambiguity that exists in the language of the current exemption to reduce the likelihood of a misinterpretation of the exemption by the Freedom of Information Commission. The propose change does not change the scope of the exemption, but provide clarity. For instance, this change defines the subject matter by engaging the term "education records". "Education records" is a term defined by FERPA, to distinguish the body of documents to which the law applies. The term "educational records" is not defined. Further, the phrase "are not subject to disclosure" is also unclear with respect to FERPA. Under FERPA education records are subject to disclosure only when a student consents to the disclosure. Consent cannot be demanded from a private citizen. The spirit of FERPA is to ensure privacy, and FOIA by providing an exemption from disclosure for educational records under FERPA, attempts to provide privacy, but the current wording of the statute is awkward.

3. **Proposal:** Modify section 4-38(c) to delete the BOR as a department of the executive branch.
Language: There shall be within the executive branch of state government the following departments: Office of Policy and Management, Department of Administrative Services, Department of Revenue Services, Department of Banking, Department of Agriculture, Department of Children and Families, Department of Consumer Protection, Department of Correction, Department of Economic and Community Development, State Board of Education, Department of Emergency Services and Public Protection, Department of Energy and Environmental Protection, Department of Public Health, [Board of Regents for Higher Education,] Insurance Department, Labor Department, Department of Mental Health and Addiction Services, Department of Developmental Services, Department of Social Services, Department of

Transportation, Department of Motor Vehicles, Department of Veterans' Affairs and Department of Construction Services.

Rationale: With the passage of PA 11-48 "Board of Governors for Higher Education" in Sec. 4-38(c) was changed to "Board of Regents for Higher Education." As the organization has evolved, BOR has shed the functions of the Board of Governors pertaining to the oversight, administration, or regulation of any institution within the state system of public education, and performs instead only as the governing body and budgeting agency for the 17 institutions under its purview. Additionally, with the passage of PA 13-4, CGS Sec. 4-5 was amended to remove the President of the Board as a department head in line with changes necessary to allow the Board to appoint the president and allow for an employment contract that is not coterminous with that of the Governor. This also served to remove the President of the Board of Regents from any provisions of CGS 4-6, 4-7 and 4-8. This proposed change should have been made upon passage of PA 13-4 for consistency.

4. **Proposal:** Modify CGS Sec. 10a-6b(e), annual accountability reporting requirements, to allow for institutions to submit reports to the Board of Regents by December 1 (as opposed to November 1), and for the Board to in turn submit a consolidated report to the HED committee by February 1 (as opposed to December 1).

Language: (e) Each public institution of higher education of the state system of higher education shall submit an accountability report to the president of the Board of Regents for Higher Education annually, by [November] [December](#) first. The president shall compile the reports and shall submit, in accordance with section 11-4a, a consolidated accountability report for the state system of higher education to the joint standing committee of the General Assembly having cognizance of matters relating to higher education annually, by [December] [February](#) first. The report shall contain accountability measures for each constituent unit and public institution of higher education pursuant to subsections (a) and (b) of this section. The report shall include updated baseline and peer comparison data, performance improvement targets for each measure, and other information as determined by the president.

Rationale: The new reporting deadlines fit more naturally with existing federal reporting requirements and data freeze dates pertaining to the start of the fall semester. Data for the start of the semester is not frozen for federal IPEDS (Integrated Postsecondary Education Data System) purposes until the third week of the semester (late-September), after which institutional research staff is busy meeting substantial IPEDS reporting requirements. Allowing for a December date for institutional reporting to the BOR means the most current data will be included and allows IR staff to handle this report appropriately. Allowing for a February legislative reporting requirement provides the time necessary for BOR central office staff to compile institutional reports and fill in gaps as needed and required.

Proposal 1: Contracting Statutes Modification – Statutory Language

§ 4a-52a. Purchases by constituent units of the state system of higher education. Disqualification from bidding. Delegation of purchasing authority to state agencies. (a) Notwithstanding the provisions of section 4a-51 or 4a-52, the chief executive officer of each constituent unit of the state system of higher education, [the President of the Board of Regents for Higher Education](#) or, in the case of the Connecticut State University System, the chief executive officer of a state university, is authorized to purchase supplies, materials, equipment, contractual services, as defined in section 4a-50, execute personal service agreements as defined in section 4-212, lease personal property in accordance with section 10a-151b, and undertake printing, publishing and microfilming for such constituent unit or institution. The provisions of sections 4-212 to 4-219, inclusive, and section 9 of public act 93-336 shall not apply to personal service agreements executed pursuant to this section.

(b) The chief executive officer of each constituent unit of the state system of higher education, [the President of the Board of Regents for Higher Education](#) or, in the case of the Connecticut State University System, the chief executive officer of a state university may disqualify any person, firm or corporation, for up to two years, from bidding on contracts with the constituent unit or institutions under its jurisdiction, pursuant to section 10a-151b, for supplies, materials, equipment and contractual services required by the constituent unit or institution, for one or more causes specified in subsection (d) of this section. The chief executive officer may initiate a disqualification proceeding only after consulting with the Attorney General and shall provide notice and an opportunity to be heard to the person, firm or corporation which is the subject of the proceeding. The chief executive officer [or President](#) shall issue a written decision within ninety days of the last date of such hearing and state in the decision the reasons for the action taken, and if the person, firm or corporation is being disqualified, the period of the disqualification. The chief executive officer [or President](#) shall send the decision to such person, firm or corporation by certified mail, return receipt requested, and a copy of the decision shall be sent to the Commissioner of Administrative Services. The written decision shall be a final decision for the purposes of sections 4-180 and 4-183.

(c) Before initiating such a proceeding or during the proceeding, the chief executive officer [or President](#) may, after consulting with the Attorney General, suspend the person, firm or corporation from being considered for the awarding of such a contract for such supplies, materials, equipment or contractual services, if the chief executive officer determines that there is probable cause for disqualification under subsection (b) of this section. No such suspension shall exceed three months. The chief executive officer [or President](#) may suspend such a person, firm or corporation only by issuing a written decision setting forth the reasons for, and the period of the suspension. The chief executive officer [or President](#) shall send the decision to such person, firm or corporation by certified mail, return receipt requested, and a copy of the decision shall be sent to the Commissioner of Administrative Services.

(d) Causes for disqualification or suspension from bidding on contracts shall include the following:

(1) Conviction or entry of a plea of guilty for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(2) Conviction or entry of a plea of guilty under state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a state contractor;

(3) Conviction or entry of a plea of guilty under state or federal antitrust, collusion or conspiracy statutes arising out of the submission of bids or proposals;

(4) Noncompliance with contract provisions, of a character regarded by the chief executive officer [or President](#) to be of such gravity as to indicate a lack of responsibility to perform as a contractor, including deliberate failure, without good cause, to perform in accordance with specifications or time limits provided in a contract;

(5) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, unless such failure to perform or unsatisfactory performance was caused by acts beyond the control of the contractor or supplier; or

(6) Any other cause the chief executive officer [or President](#) determines to be so serious or compelling as to affect responsibility as a contractor, including disqualification by another government entity, having caused financial loss to the state or having caused a serious delay or inability of state officials to carry out their duties on a past contract.

(e) Notwithstanding the provisions of sections 4a-51 and 4a-52, the Commissioner of Administrative Services may delegate authority to any state agency to purchase supplies, materials, equipment and contractual services, consistent with section 4a-67c, if the commissioner determines, in writing, that (1) such delegation would reduce state purchasing costs or result in more efficient state purchasing, and (2) the agency has employees with experience and expertise in state purchasing statutes, regulations and procedures. In determining which agencies to delegate such purchasing authority to, the commissioner shall give preference to agencies which have exceeded the set-aside requirements of section 4a-60g. An agency to whom such authority is delegated shall comply with all such statutes, regulations and procedures and shall submit annual reports to the Commissioner of Administrative Services on its purchase orders, in a format prescribed by the commissioner. The Commissioner of Administrative Services or his or her designee shall periodically review each such delegation of purchasing authority and may revoke or modify a delegation upon determining that the agency has violated any provision of the delegation or that there is evidence of insufficient competition in the competitive bidding or competitive negotiation process.

§ 4a-52b. Circumstances in which constituent units authorized to purchase by negotiation

Notwithstanding any provision of the general statutes to the contrary, a constituent unit of the state

system of higher education, [the system office of the Board of Regents for Higher Education](#), or an institution of the Connecticut State University system, may purchase, by negotiation, supplies, materials, equipment and contractual services, as defined in section 4a-50, for the constituent unit or institution, as appropriate, when the supplies, materials, equipment or contractual services (1) are required to implement a grant, contract or financial agreement between the constituent unit or institution, as appropriate, and the donor of funds or other things of value which are given with an obligation for service primarily to the donor by the constituent unit or institution, as appropriate and (2) are specified in such grant, contract or financial agreement.

§ 4a-64. (Formerly Sec. 4-116). Persons not to be interested in contract. Neither the Commissioner of Administrative Services, nor any member of his office staff, nor any member of the Standardization Committee nor the executive head of any state agency to whom purchasing authority has been delegated pursuant to section 4a-52a, nor any member of his office staff, nor the chief executive officer of a constituent unit of the state system of higher education or institution within such a constituent unit, nor any member of his office staff, [nor the President of the Board of Regents for Higher Education, nor any member of his office staff](#), shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in any contract or purchase order for any supplies, materials, equipment or contractual services furnished to or used by any state agency or, in the case of the chief executive officer of such a constituent unit or such an institution or any member of his staff [and the President of the Board of Regents for Higher Education or any member of his staff](#), by any such constituent unit [or] institution, [or office](#); nor shall such commissioner or member of his staff or member of the Standardization Committee or executive head or member of his staff or chief executive officer of such a constituent unit or institution or any member of his staff accept or receive, directly or indirectly, from any person, firm or corporation to which any contract or purchase order may be awarded by the Department of Administrative Services, any such state agency or any such constituent unit or institution, as the case may be, by rebate, gifts or otherwise, any money, or anything of value whatsoever, or any promise, obligation or contract for future reward or compensation. Any person who violates any provision of this section shall be fined not more than five hundred dollars or imprisoned not more than six months or be both fined and imprisoned.

§ 4b-51. (Formerly Sec. 4-131). Alterations, repairs or additions to real assets. Selection of consultants for certain projects (a)The Commissioner of Public Works shall have charge and supervision of the remodeling, alteration, repair or enlargement of any real asset, except any dam, flood or erosion control system, highway, bridge or any mass transit, marine or aviation transportation facility, a facility of the Connecticut Marketing Authority, an asset of the Department of Agriculture program established pursuant to section 26-237a, or any building under the supervision and control of the Joint Committee on Legislative Management, involving an expenditure in excess of five hundred thousand dollars, and except that (1) the Judicial Branch may have charge and supervision of the remodeling, alteration, repair, construction or enlargement of any real asset involving an expenditure of not more than one million two hundred fifty thousand dollars, (2) [the system office for the Board of Regents for Higher Education and](#) each constituent unit of the state system of higher education may have charge and

supervision of the remodeling, alteration, repair, construction or enlargement of any real asset involving an expenditure of not more than two million dollars, and (3) The University of Connecticut shall have charge and supervision of the remodeling, alteration, repair, construction, or enlargement of any project, as defined in subdivision (16) of section 10a-109c, notwithstanding the amount of the expenditure involved. In any decision to remodel, alter, repair or enlarge any real asset, the commissioner shall consider the capability of the real asset to facilitate recycling programs.

(b) No officer, department, institution, board, commission or council of the state government, except the Commissioner of Public Works, the Commissioner of Transportation, the Connecticut Marketing Authority, the Department of Agriculture for purposes of the program established pursuant to section 26-237a, the Joint Committee on Legislative Management, the Judicial Branch or a constituent unit of the state system of higher education as authorized in subsection (a) of this section, shall, unless otherwise specifically authorized by law, make or contract for the making of any alteration, repair or addition to any real asset involving an expenditure of more than five hundred thousand dollars.

(c) The plans necessary for any such remodeling, alteration, repair or enlargement of any state humane institution, as defined in section 17b-222, shall be subject to the approval of the administrative head of such humane institution.

(d) Notwithstanding any provision of the general statutes, the Commissioner of Public Works may select consultants to be on a list established for the purpose of providing any consultant services. Such list shall be established as provided in sections 4b-56 and 4b-57. The commissioner may enter into a contract with any consultant on such list to perform a range of consultant services or to perform a range of tasks pursuant to a task letter detailing services to be performed under such contract. As used in this subsection, "consultant" means "consultant" as defined in section 4b-55, and "consultant services" means "consultant services" as defined in section 4b-55.

(e) Costs for projects authorized under subsection (b) of this section shall be charged to the bond fund account for the project for which such costs are incurred. The Department of Public Works shall develop procedures for expediting the administration of projects for alterations, repairs or additions authorized under said subsection (b).

(f) Any state agency proposing to remodel, alter or enlarge any real asset shall submit a statement to the commissioner demonstrating the capability of the real asset to facilitate recycling programs.

§ 4b-52. (Formerly Sec. 4-132). Repairs or changes to state premises, contracts, bids, use of state employees or inmates. Emergency conditions and restoration of facilities. Governor's written consent and certification to General Assembly required, when. Renegotiation of leases. (a)(1) No repairs, alterations or additions involving expense to the state of five hundred thousand dollars or less or, in the case of repairs, alterations or additions to a building rented or occupied by the Judicial Branch, one million two hundred fifty thousand dollars or less or, in the case of repairs, alterations or additions to a building rented or occupied by a constituent unit of the state system of higher education, two million

dollars or less, shall be made to any state building or premises occupied by any state officer, department, institution, board, commission or council of the state government and no contract for any construction, repairs, alteration or addition shall be entered into without the prior approval of the Commissioner of Administrative Services, except repairs, alterations or additions to a building under the supervision and control of the Joint Committee on Legislative Management and repairs, alterations or additions to a building under the supervision of The University of Connecticut. Repairs, alterations or additions which are made pursuant to such approval of the Commissioner of Administrative Services shall conform to all guidelines and procedures established by the Department of Administrative Services for agency-administered projects.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, repairs, alterations or additions involving expense to the state of five hundred thousand dollars or less may be made to any state building or premises under the supervision of the Office of the Chief Court Administrator, [the system office of the Board of Regents for Higher Education](#), or a constituent unit of the state system of higher education, under the terms of section 4b-11, and any contract for any such construction, repairs or alteration may be entered into by the Office of the Chief Court Administrator, [the system office of the Board of Regents for Higher Education](#), or a constituent unit of the state system of higher education without the approval of the Commissioner of Administrative Services.

(b) Except as provided in this section, no repairs, alterations or additions involving an expense to the state of more than five hundred thousand dollars or, in the case of repairs, alterations or additions to a building rented or occupied by the Judicial Branch, more than one million two hundred fifty thousand dollars, or, in the case of repairs, alterations or additions to a building rented or occupied by a constituent unit of the state system of higher education, more than two million dollars, shall be made to any state building or premises occupied by any state officer, department, institution, board, commission or council of the state government, nor shall any contract for any construction, repairs, alteration or addition be entered into, until the Commissioner of Administrative Services or, in the case of the construction or repairs, alterations or additions to a building under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, said joint committee or, in the case of construction, repairs, alterations or additions to a building involving expenditures in excess of five hundred thousand dollars but not more than one million two hundred fifty thousand dollars under the supervision and control of the Judicial Branch, said Judicial Branch or, in the case of the construction, repairs, alterations or additions to a building involving expenditures in excess of five hundred thousand dollars but not more than two million dollars under the supervision and control of one of the constituent units of higher education, the constituent unit, has invited bids thereon and awarded a contract thereon, in accordance with the provisions of sections 4b-91 to 4b-96, inclusive. The Commissioner of Administrative Services, with the approval of the authority having the supervision of state employees or the custody of inmates of state institutions, without the necessity of bids, may employ such employees or inmates and purchase or furnish the necessary materials for the construction, erection, alteration, repair or enlargement of any such state building or premises occupied

by any state officer, department, institution, board, commission or council of the state government.

(c)Whenever the Commissioner of Administrative Services declares that an emergency condition exists at any state facility, other than a building under the supervision and control of the Joint Committee on Legislative Management, and that the condition would adversely affect public safety or the proper conduct of essential state government operations, or said joint committee declares that such an emergency exists at a building under its supervision and control, the commissioner or the joint committee may employ such assistance as may be required to restore facilities under their control and management, or the commissioner may so act upon the request of a state agency, to restore facilities under the control and management of such agency, without inviting bids as required in subsection (b) of this section. The commissioner shall take no action requiring the expenditure of more than five hundred thousand dollars to restore any facility under this subsection (1) without the written consent of the Governor, and (2) until the commissioner has certified to the joint committee of the General Assembly having cognizance of matters relating to legislative management that the project is of such an emergency nature that an exception to subsection (b) of this section is required. Such certification shall include input from all affected agencies, detail the need for the exception and include any relevant documentation. The provisions of this subsection shall not apply if any person is obligated under the terms of an existing contract with the state to render such assistance. The annual report of the commissioner shall include a detailed statement of all expenditures made under this subsection.

(d)The Commissioner of Administrative Services may, during the term of a lease of a building or premises occupied by any state offices, department, institution, board, commission or council of the state government, (1) renegotiate the lease in order to enable the lessor to make necessary alterations or additions up to a maximum amount of five hundred thousand dollars, and subject to the approval of the State Properties Review Board, or (2) require that a security audit be conducted for such building or premises and, if necessary, renegotiate the lease in order to enable the lessor to make necessary alterations or additions to bring the building or premises into compliance with the security standards for state agencies established under section 4b-132. Alterations or additions under subdivision (2) of this subsection shall not be subject to the spending limit in subdivision (1) of this subsection, and a renegotiated lease under said subdivision (2) shall be subject to the approval of the State Properties Review Board, provided such approval requirement shall not compromise the security requirements of chapter 60a and this section. The commissioner shall determine the manner of submission, conditions and requirements of bids and awards made for alterations or additions under this subsection. No lease shall be renegotiated under this subsection for a term less than five years. As used in this subsection, "security" and "security audit" have the meanings assigned to such terms in section 4b-130.

§ 4b-91. (Formerly Sec. 4-137a). Bidding for public building contracts. Prequalification requirements.

(a)Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state except a public highway or bridge project or any other construction project administered by the Department of Transportation, which is estimated to cost more than five hundred thousand dollars, except a contract awarded by the Commissioner of Public

Works for (1) a community court project, as defined in subsection (j) of section 4b-55, (2) the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, (3) a correctional facility project, as defined in subsection (m) of section 4b-55, (4) a juvenile detention center project, as defined in subsection (n) of section 4b-55, or (5) a student residential facility for the Connecticut State University System that is a priority higher education facility project, as defined in subsection (f) of section 4b-55, shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant to section 4a-100 on the basis of competitive bids in accordance with the procedures set forth in this chapter, after the Commissioner of Public Works or, in the case of a contract for the construction of or work on a building or other public work under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, the joint committee or, in the case of a contract for the construction of or work on a building or other public work under the supervision and control of [the Board of Regents for Higher Education on behalf of](#) one of the constituent units of the state system of higher education, the [system office for the Board of Regents for Higher Education, or](#) constituent unit, has invited such bids by notice posted on the State Contracting Portal. Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by a public agency that is paid for, in whole or in part, with state funds and that is estimated to cost more than five hundred thousand dollars, except a public highway or bridge project or any other construction project administered by the Department of Transportation, shall be awarded to a bidder that is prequalified pursuant to section 4a-100 after the public agency has invited such bids by notice posted on the State Contracting Portal. The Commissioner of Public Works, the joint committee, the constituent unit, [the system office for the Board of Regents for Higher Education,](#) or the public agency, as the case may be, shall indicate the prequalification classification required for the contract in such notice. As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of Administrative Services pursuant to section 4a-100. As used in this section, "public agency" means public agency, as defined in section 1-200.

(b)The Commissioner of Public Works, the joint committee or the constituent unit or [the system office for the Board of Regents for Higher Education,](#) as the case may be, shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be made not later than ninety days after the opening of such bids. If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to the amount specified in the general bid form, an award shall be made to the next lowest responsible and qualified general bidder. No employee of the Department of Public Works, the joint committee, [the system office of the Board of Regents for Higher Education, or](#) a constituent unit, with decision-making authority concerning the award of a contract and no public official, as defined in section 1-79, may communicate with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract that is not available to other bidders, except that if the lowest responsible and qualified bidder's price submitted is

in excess of funds available to make an award, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with such bidder and award the contract on the basis of the funds available, without change in the contract specifications, plans and other requirements. If the award of a contract on said basis is refused by such bidder, the Commissioner of Public Works, the Joint Committee on Legislative Management, [the system office for the Board of Regents for Higher Education](#), or the constituent unit, as the case may be, may negotiate with other contractors who submitted bids in ascending order of bid prices without change in the contract, specifications, plans and other requirements. In the event of negotiation with general bidders as provided in this section, the general bidder involved may negotiate with subcontractors on the same basis, provided such general bidder shall negotiate only with subcontractors named on such general bidder's general bid form.

(c) No person may bid on a contract or perform work pursuant to a contract that is subject to the provisions of subsection (a) of this section unless the person is prequalified in accordance with section 4a-100.

(d) Each bid submitted for a contract described in subsection (c) of this section shall include an update bid statement in such form as the Commissioner of Administrative Services prescribes and, if required by the public agency soliciting such bid, a copy of the prequalification certificate issued by the Commissioner of Administrative Services. The form for such update bid statement shall provide space for information regarding all projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has under contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or corporate structure since the date the certificate was issued or renewed, any change in the contractor's qualification status as determined by the provisions of subdivision (6) of subsection (c) of section 4a-100 and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate, if required by the public agency soliciting such bid, and an update bid statement shall be deemed invalid. Any public agency that accepts a bid submitted without a copy of such prequalification certificate, if required by such public agency soliciting such bid, and an update bid statement may become ineligible for the receipt of funds related to such bid.

(e) Any person who bids on a contract described in subsection (c) of this section shall certify under penalty of false statement at the conclusion of the bidding process that the information in the bid is true, that there has been no substantial change in the bidder's financial position or corporate structure since the bidder's most recent prequalification certificate was issued or renewed, other than those changes noted in the update bid statement, and that the bid was made without fraud or collusion with any person.

(f) Any person who receives information from a state employee or public official that is not available to

the general public concerning any construction, reconstruction, alteration, remodeling, repair or demolition project on a public building or any other public work prior to the date that a notice for bids on the project is posted shall be disqualified from bidding on the project.

(g)Notwithstanding the provisions of this chapter regarding competitive bidding procedures, the commissioner may select and interview at least three responsible and qualified general contractors who are prequalified pursuant to section 4a-100 and submit the three selected contractors to the construction services award panels process described in section 4b-100a and any regulation adopted by the commissioner. The commissioner may negotiate with the successful bidder a contract which is both fair and reasonable to the state for a community court project, as defined in subsection (j) of section 4b-55, the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, a correctional facility project, as defined in subsection (m) of section 4b-55, a juvenile detention center project, as defined in subsection (n) of section 4b-55, or a student residential facility for the Connecticut State University System that is a priority higher education facility project, as defined in subsection (f) of section 4b-55. The Commissioner of Public Works, prior to entering any such contract or performing any work on such project, shall submit such contract to the State Properties Review Board for review and approval or disapproval by the board, pursuant to subsection (i) of this section. Any general contractor awarded a contract pursuant to this subsection shall be subject to the same requirements concerning the furnishing of bonds as a contractor awarded a contract pursuant to subsection (b) of this section.

(h)Any agency that seeks to have a project awarded without being subject to competitive bidding procedures shall certify to the joint committee of the General Assembly having cognizance of matters relating to government administration and elections that the project is of such an emergency nature that an exception to the competitive bidding procedures of this section is required. Such certification shall include input from all affected agencies, detail the need for the exception and include any relevant documentation.

(i)In the event that the General Assembly approves legislation authorizing an exception to the competitive bidding process for a project, the State Properties Review Board shall complete a review of the contract for such project and approve or disapprove such contract no later than thirty days after the Commissioner of Public Works submits such contract to the board. Such review shall be conducted in accordance with the provisions of section 4b-3. In the event that such review does not occur within the thirty-day period prescribed by this subsection, such contract shall be deemed to be approved.

(j)On and after October 5, 2009, no person whose subcontract exceeds five hundred thousand dollars in value may perform work as a subcontractor on a project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state or a municipality, except a public highway or bridge project or any other construction project administered by the Department of Transportation, which project is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, unless the person is prequalified in

accordance with section 4a-100. The provisions of this subsection shall not apply to a project described in subdivision (2) of subsection (a) of this section.

§ 4e-47. Regulations concerning application of certain contracting statutes to each constituent unit of the state system of higher education On or after January 1, 2011, the State Contracting Standards Board shall adopt regulations, in accordance with the provisions of chapter 54, to apply the contracting procedures, as described in sections 4e-18 to 4e-45, inclusive, to each constituent unit of the state system of higher education [and to the Board of Regents for Higher Education](#). Such regulations shall take into consideration circumstances and factors that are unique to such constituent units [and the Board of Regents for Higher Education](#).

§ 10a-151b. Purchase of equipment, supplies and contractual services by constituent units and their institutions (a) Notwithstanding the provisions of chapter 58, and sections 4-98, 4a-4, 4a-5, 4a-6, 4d-2, and 4d-5 to the contrary, a chief executive officer may purchase equipment, supplies and contractual services, execute personal service agreements, as defined in section 4-212, or lease personal property compatible, where relevant, with standards for computer architecture established by the Department of Administrative Services, without the approval of the Comptroller, the Secretary of the Office of Policy and Management or the Commissioner of Administrative Services, provided the chief executive officer consults with the commissioner and such purchases are made in accordance with this section and in accordance with policies which are (1) adopted by the board of trustees of the constituent unit after reasonable opportunity for interested persons to present their views, and (2) subject to section 4-175. For purposes of this section, "chief executive officer" means the chief executive officer of a constituent unit of the state system of higher education or the chief executive officer of an institution within the jurisdiction of such a constituent unit, [or the President of the Board of Regents for Higher Education](#). The provisions of sections 4-212 to 4-219, inclusive, and section 9 of public act 93-336 shall not apply to personal service agreements executed pursuant to this section.

(b) Purchases made pursuant to this section shall be based, when possible, on competitive bids or competitive negotiation. Such chief executive officer shall solicit competitive bids or proposals by sending notice to prospective suppliers and by posting notice on a public bulletin board in such officer's office. Such notice shall contain a notice of state contract requirements pursuant to section 4a-60. Each bid or proposal shall be kept sealed until opened publicly at the time stated in the notice soliciting such bid or proposal. Sealed bids or proposals shall include bids or proposals sealed within an envelope or maintained within a safe and secure electronic environment until such time as they are publicly opened. If the amount of the expenditure is estimated to exceed fifty thousand dollars, not later than five calendar days before the final date of submitting competitive bids or proposals, competitive bids or proposals shall be solicited by public notice posted on the Internet. All purchases fifty thousand dollars or less in amount shall be made in the open market, but shall, when possible, be based on at least three competitive quotations. If desired by the constituent unit, competitive quotations may include quotations submitted to the constituent unit within a safe and secure electronic environment. The constituent unit shall not refuse to consider a bid, proposal or quotation because it is not submitted

electronically.

(c)Notwithstanding the provisions of subsection (b) of this section to the contrary, competitive bidding or competitive negotiation is not required in the case of (1) minor purchases of ten thousand dollars or less in amount, (2) purchases made pursuant to subsection (k) of this section, (3) emergency purchases, or (4) agricultural purchases of dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits, vegetables or other farm products in an amount of fifty thousand dollars or less. Whenever an emergency exists by reason of extraordinary conditions or contingencies that could not reasonably be foreseen and guarded against, or because of unusual trade or market conditions, the chief executive officer may, if it is for the best interest of the state, make purchases without competitive bidding. A statement of all emergency purchases made under the provisions of this subsection shall be set forth in the annual report of the chief executive officer. The chief executive officer, when making an agricultural purchase in accordance with subdivision (4) of this subsection, shall give preference to dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits, vegetables or other farm products grown or produced in this state when such products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits or vegetables are comparable in cost to other dairy products, poultry, eggs, fruits or vegetables being considered for purchase by the chief executive officer that have not been grown or produced in this state.

(d)Nothing in this section shall exempt a constituent unit or chief executive officer from complying with the provisions of sections 4a-60 and 4a-61.

(e)No person, firm or corporation disqualified pursuant to section 4a-52a, or by the Commissioner of Administrative Services pursuant to section 4a-63 from bidding on contracts with the Department of Administrative Services may bid pursuant to this section.

(f)A chief executive officer who enters into a contract under this section which fails to meet the requirements of this section shall be personally liable for the costs of such contract and such contract shall be void and of no effect. Any amount paid under such contract may be recovered from such chief executive officer by the state in a civil action.

(g)Nothing in this section shall be construed to prevent a chief executive officer from participating in a contract for the purchase of equipment, supplies or services with the Department of Administrative Services pursuant to chapter 58.

(h)Nothing in this section shall be construed to prevent a constituent unit from entering into a corporate sponsorship agreement which contains provisions for the barter of goods and services, provided such agreement is entered into in accordance with policies and procedures governing such agreements pursuant to subsection (a) of this section.

(i)For the period from July 1, 2002, to June 30, 2006, inclusive, any funds or revenues collected from ticket sales by the contractor hired by Western Connecticut State University to operate and manage its

O'Neill Center, shall not be deemed to be state funds for the purposes of sections 4-32 and 4-33 and may be deposited in the contractor's account for a period of time not to exceed forty days, during which time the contractor shall pay all expenses related to the event for which the tickets were sold and make an accounting of the portion of the funds to be remitted to the university, and then remit such funds to the university pursuant to the terms of the contract. Upon receipt of such funds, the university shall deposit such funds in accordance with the provisions of sections 4-32 and 4-33.

(j)Notwithstanding the provisions of subsections (a) and (b) of this section, a chief executive officer may not extend a contract with a value of fifty thousand dollars or more per year to perform janitorial, building maintenance, security or food and beverage services unless: (1) Such contract is in effect on May 1, 2005; (2) such extension is for a period of one year from the date such contract would otherwise expire; and (3) any such extension includes any applicable increase in the standard wage and the payroll burden to administer the standard wage, as established by the Labor Department.

(k)The chief executive officer of a constituent unit may purchase, or make expenditures related to the development of, any technology, product or process for the purpose of testing such technology, product or process in the operation of the constituent unit on a trial basis, if (1) such technology, product or process (A) is part of or related to a research program at the constituent unit, (B) has the potential, as determined by the chief executive officer, to provide economic benefit to the state, (C) will not adversely affect the safety of any individual, and (D) has potential for commercialization, and (2) the chief executive officer has received a recommendation to test such technology, product or process from a constituent unit committee whose membership includes the chief purchasing official, the chief academic officer and the chief economic development officer for the constituent unit, or their designees.

(l)The chief executive officer of a constituent unit that purchases or makes expenditures related to the development of any technology, product or process for the purpose of testing such technology, product or process in the operation of the constituent unit on a trial basis, pursuant to subsection (k) of this section, shall, not later than January first of the year following such purchase or expenditure, submit a report, on the number of times such constituent unit tested such technology, product or process during the last twelve months, or if such tests are not complete, will test such technology, product or process in the next twelve months, to the joint standing committees of the General Assembly having cognizance of matters relating to higher education and commerce, in accordance with section 11-4a.