



State of Connecticut
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
OFFICE OF PUBLIC HEARINGS

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Promoting Equality and Justice for all People

February 1, 2024

Commission on Human Rights & Opportunities v. The Nunes CC No. 2023-005.

FINAL DECISION FOLLOWING AN ENTRY OF DEFAULT BY THE PRESIDING HRR

Dear Complainant/Respondent/Commission:

Transmitted herewith is a copy of the Presiding Referee's Final Decision in the above captioned complaint.

The decision is being sent via email to the commission and respondent.

Very Truly yours,

Kimberly D. Morris

Kimberly D. Morris
Secretary II

Cc.

Armando Nunes, President
armand@ncincorporated.net

Gabriela Sandoval, Human Rights Attorney
gabriela.sandoval@ct.gov

Jon P. FitzGerald, Presiding Human Rights Referee

Commission on Human Rights and
Opportunities, Complainant

Office of Public Hearings

v

OFFICE OF
PUBLIC HEARINGS -CHRO
DATE 2-2-24
TIME 9:25 AM
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CHRO No. CC 2023-005

The Nunes Companies, Inc. a/k/a
NC Incorporated AMN, Respondent

February 2, 2024

FINAL DECISION FOLLOWING THE ENTRY OF AN ORDER OF DEFAULT

**I
PRELIMINARY STATEMENT**

On July 25, 2023, the commission on human rights and opportunities (commission) filed a complaint with the office of public hearings pursuant to General Statutes §§ 46a-56 (c)¹ and 46a-82 (c)². In its complaint, the commission alleged that The Nunes Companies, Inc. a/k/a NC Incorporated AMN (Nunes) was a contractor or subcontractor for a state or state financed contract/subcontract. The commission further alleged that Nunes failed to comply with the antidiscrimination statutes or contract provisions as required under General Statutes §§ 4a-60³, 4a-60g⁴, 4a-60h⁵, and 46a-68c to 46a-68f⁶ inclusive.

A duly noticed hearing conference was held on September 7, 2023. No one appeared on behalf of Nunes. Upon motion by the commission, Nunes was defaulted for failing to file an answer to the complaint and failing to attend a lawfully noticed hearing. A duly noticed hearing in damages was held on December 1, 2023 via zoom. No one appeared on behalf of Nunes. Pursuant to statute and regulation, the hearing in damages was limited to determining the relief necessary to eliminate the discriminatory practice

and make the commission whole. § 46a-56 (c), and Sections 46a-54-78a (5) and 46a-54-88a of the Regulations of Connecticut State Agencies.

Briefs were due on January 30, 2024, at which time the record closed.

For the reasons set forth herein, Nunes is found to have violated §§ 4a-60, 4a-60g, 4a-60h, and 46a-68c to 46a-68f inclusive. Relief is ordered as set forth herein.

II PARTIES

The parties to this action are the commission, 450 Columbus Blvd., Hartford, Connecticut, and Nunes, 658 Center Street, Ludlow, Massachusetts.

III FINDINGS OF FACT

References to the transcript as designated as "Tr." followed by the page number. References to the commission's exhibits are designated as CHRO followed by the exhibit number.

In addition, pursuant to Section 46a-54-86a (b) of the Regulations of Connecticut State Agencies, the failure by Nunes "to answer any allegation or part of an allegation shall be deemed an admission of such allegation or part thereof without the need for further proof."

1. Pursuant to General Statutes §§ 4a-60, 4a-60a, 4a-60g, 46a-56, and 46a-68b to 46a-68f inclusive, the commission is mandated to review, monitor, and enforce the laws against discrimination in state and municipal public works contracts and in affirmative action compliance. Complaint, ¶ 3; Tr. 8-10.

2. The commission provides contractors with no cost, on-line contract compliance training. Tr. 10-11.
3. The respondent is The Nunes Companies, Inc. a/k/a NC Incorporated AMN, a corporation organized and existing under the laws of the State of Massachusetts and authorized to conduct business in the State of Connecticut. Complaint, ¶ 2; CHRO-3.
4. The president of Nunes is Armando Nunes. Complaint, ¶ 2; CHRO-2; Tr. 13-14.
5. In May 2021, Nunes was awarded a municipal public works contract for work relating to the Wolcott Park Western Parking Lot Pavement Rehabilitation and Expansion Project, Bid #210024, located at 1341 New Britain Ave., West Hartford, Connecticut (Wolcott Park). Complaint, ¶ 7; Tr. 12-13.
6. The state funded portion of the contract was 100% and totaled \$301,290. Complaint, ¶ 21; Tr. 16.
7. Nunes was a contractor or subcontractor on a state or state financed contract/subcontract. Complaint, ¶ 4.
8. As a contractor or subcontractor on a state or state financed contract/subcontract, Nunes is subject to the requirements of §§ 4a-60, 4a-60g, 4a-60h, and 46a-68c to 46a-68f inclusive and is subject to the commission's review of its practices. Complaint, ¶ 4.

9. Nunes was required to file an affirmative action plan set aside (plan) with the commission. Nunes was also obligated to provide information requested by the commission. Complaint, ¶ 8; Tr. 14.
10. Through its monitoring and compliance procedures, the commission determined that Nunes was not complying with the requirements of §§ 4a-60, 4a-60g, 4a-60h, and 46a-68c to 46a-68f inclusive or other agreed upon contract provisions. More specifically, Nunes failed to provide the commission with the requisite plan and with requested information. Complaint, ¶¶ 5, 12, 16, and 22; Tr. 14.
11. On February 14, 2022, the commission emailed Nunes to request that it attend a training session on filing the required plan. The email included the date, time, and weblink for the training as well as commission staff contact information should Nunes have any questions. Nunes replied that the plan would be submitted in the coming days. Complaint, ¶ 10.
12. On March 1, 2022, the commission emailed Nunes requesting an update as to when the plan would be filed. The commission also included information on an upcoming training session to be held on March 8, 2022. Nunes replied that it would attend the training session and then submit the plan. Complaint, ¶ 11; CHRO-14; Tr. 15.
13. Nunes neither attended the training session nor submitted a plan. Complaint, ¶ 12; Tr. 15-16.

14. On March 21, 2022, the commission emailed Nunes requesting an update on when the plan would be submitted. Nunes replied that it would attend the training session to be held on April 6, 2022 and thereafter submit its plan. Complaint, ¶ 13.
15. Nunes attended the training session on April 6, 2022. Complaint, ¶ 15; Tr. 14-15.
16. Despite attending the training session and stating that it would submit a plan, Nunes did not submit a plan. Complaint, ¶ 16; Tr. 15-16.
17. Using Nune's verified email address, commission investigators in its contract compliance unit emailed Nunes several times requesting that it submit the required plan. Complaint, ¶¶ 9, 11, 13, and 17-19; Tr. 12, 14-15. Requests were made on dates including April 22, 2022; May 9, 2022; May 24, 2022; May 31, 2022; June 8, 2022; September 2, 2022; October 4, 2022; October 25, 2022; November 2, 2022; and January 17, 2023. Complaint, ¶¶ 17-20; CHRO-15, CHRO-16, CHRO-17; Tr. 14.
18. Nunes never provided the commission with an explanation as to its failure to comply with its statutory obligations. Tr. 17.
19. As of the date of the hearing in damages, Nunes had not submitted the required plan. Tr. 12, 14.
20. The Wolcott Park project has been completed and Nunes has been paid in full. Complaint, ¶ 21; Tr. 18.

21. Nunes received notice of its requirement to file an answer to the complaint and attend hearings. Nunes received notice that its failure to file an answer and/or to attend hearings could result in the entry of an order of default. Nunes received notice that after the entry of an order of default, the presiding human rights referee could conduct a hearing in damages limited to determining the relief necessary to eliminate the discriminatory practice and make the commission whole. CHRO-8.

IV ANALYSIS AND CONCLUSIONS OF LAW

The commission has established by a preponderance of the evidence that:

1. Nunes was a contractor or subcontractor on a state or state financed contract/subcontract.
2. Nunes is subject to the requirements of §§ 4a-60, 4a-60g, 4a-60h, and 46a-68c to 46a-68f inclusive.
3. Nunes is subject to the commission's review of its practices.
4. Nunes was required to file an affirmative action set aside plan with the commission.
5. Nunes was obligated to provide the commission with information requested by the commission.
6. The commission contacted Nunes numerous times to obtain the requisite affirmative action set aside plan and to provide guidance on completion of the plan.
7. Nunes failed to file the requisite affirmative action set aside plan with the commission.

8. As a result of its failure to file an affirmative action set aside plan, Nunes is found to be in noncompliance with and in violation of the nondiscrimination and affirmative action provisions and set aside programs of General Statutes §§ 4a-60, 4a-60g, 4a-60h, and 46a-68c through 46a-68f inclusive.

**V
ORDER**

1. Pursuant to § 46a-56 (c) (2), Nunes is prohibited from participating in any further contracts with state agencies or any further municipal public works contracts or quasi-public agency contracts until the expiration of a period of two years from the date of this decision.
2. Pursuant to § 46a-56 (c) (3), the commission is ordered to publish or cause to be published notice that Nunes has been found to be in noncompliance with and in violation of the nondiscrimination and affirmative action provisions and set aside programs of General Statutes §§ 4a-60, 4a-60g, 4a-60h, and 46a-68c through 46a-68f inclusive.
3. Pursuant to § 46a-56 (c) (4), the commission is ordered to forward a copy of its complaint and this decision to the attorney general for consideration of bringing any appropriate proceedings against Nunes to enforce the provisions of General Statutes §§ 4a-60 and 4a-60a,
4. Pursuant to § 46a-56 (c) (5), the commission is ordered to forward a copy of its complaint and this decision to the Equal Employment Opportunity Commission and the U.S. Department of Justice for their consideration of bringing any

appropriate proceedings against Nunes to enforce the provisions of Title VII of the Civil Rights Act of 1964 or related laws.

5. Pursuant to § 46a-56 (c) (6), the commission is ordered to forward a copy of its complaint and this decision to the chief state's attorney for its consideration of criminal prosecution against Nunes if false information was provided to the Town of West Hartford, the State of Connecticut, or the commission.
6. Pursuant to § 46a-56 (c) (1) (B) and (9), the following other relief is ordered to achieve full compliance with antidiscrimination statutes and required contract provisions: as the project was entirely state funded, Nunes is ordered to refund to the State of Connecticut two percent (2%) of all payments it received. As the contract was for \$301,290 and Nunes has been paid in full, Nunes is ordered to pay to the State of Connecticut \$6,026 within thirty days of this decision.
7. Pursuant to § 46a-56 (c) (9), the following other relief is ordered to achieve full compliance with antidiscrimination statutes and required contract provisions: Armando Nunes and any company in which he is an officer or director is prohibited from participating in any further contracts with state agencies or any further municipal public works contracts or quasi-public contracts until the expiration of a period of two years from the date of this decision.
8. Pursuant to § 46a-56 (c) (9), the following other relief is ordered to achieve full compliance with antidiscrimination statutes and required contract provisions: the State of Connecticut is ordered to refrain from entering into further contracts, or extensions or other modifications of existing contracts, or

financing any municipal contracts with Armando Nunes and any company in which he is an officer or director until the expiration of a period of two years from the date of this decision.

9. Pursuant to General Statutes § 46a-56 (a), Nunes is ordered to cease and desist from engaging in the discriminatory practices complained of.
10. Pursuant to General Statutes § 46a-60 (b) (4), Nunes is prohibited from retaliating against or otherwise discriminating against any person who opposed any discriminatory employment practice, filed a complaint, or testified or assisted in this proceeding.

/s/ Jon P. FitzGerald

Hon. Jon P. FitzGerald
Presiding Human Rights Referee

1 General Statute § 46a-56 (c):

If the commission determines through its monitoring and compliance procedures that a contractor or subcontractor is not complying with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a or sections 46a-68c to 46a-68f, inclusive, the commission may issue a complaint pursuant to subsection (c) of section 46a-82. Such complaint shall be scheduled for a hearing before a human rights referee appointed by the chief referee to act as a presiding officer. Such hearing shall be held in accordance with chapter 54 and section 46a-84. If, after such hearing, the presiding officer makes a finding of noncompliance with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a or sections 46a-68c to 46a-68f, inclusive, the presiding officer shall order such relief as is necessary to achieve full compliance with any antidiscrimination statute and required contract provisions. The presiding officer may: (1) (A) In the case of a state contract, order the state to retain two per cent of the total contract price per month on any existing contract with such contractor that the state withheld pursuant to section 46a-68d and transfer the funds to the State Treasurer for deposit in the special fund described in subsection (e) of this section, or (B) in the case of a municipal public works or quasi-public agency contract, order the municipality or entity to retain two per cent of the total contract price per month on any existing contract with such contractor; (2) prohibit the contractor from participation in any further contracts with state agencies or any further municipal public works contracts or quasi-public agency project contracts, as applicable until: (A) The expiration of a period of two years from the date of the finding of noncompliance, or (B) the presiding officer determines that the contractor has adopted policies consistent with such statutes, provided the presiding officer shall make such determination not later than forty-five days after such finding of noncompliance; (3) publish, or cause to be published, the names of contractors or unions that the presiding officer has found to be in noncompliance with such provisions; (4) notify the Attorney General that, in cases in which there is substantial violation or the threat of substantial violation of section 4a-60 or 4a-60a, appropriate proceedings should be brought to enforce such provisions, including the enjoining of

organizations, individuals or groups that prevent, or seek to prevent, compliance with section 4a-60 or 4a-60a; (5) recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964 or related laws when necessary; (6) recommend to the appropriate prosecuting authority that criminal proceedings be brought for the furnishing of false information to any awarding agency or to the commission; (7) order the contractor to bring itself into compliance with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a or sections 46a-68c to 46a-68f, inclusive, not later than a period of thirty days after the issuance of such order or, for good cause shown, within an additional period of thirty days, and, if such contractor fails to bring itself into such compliance within such time period and such noncompliance is substantial or there is a pattern of noncompliance, recommend to the awarding agency that such agency declare the contractor to be in breach of the contract and that such agency pursue all available remedies or, in the case of a municipal public works or quasi-public agency project contract, recommend the municipality or entity to make such a declaration and pursue all available remedies; (8) order the awarding agency or, in the case of a municipal public works or quasi-public agency project contract, the municipality or entity, to refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the commission that such contractor has established and will carry out personnel and employment policies in compliance with antidiscrimination statutes and section 4a-60 or 4a-60a and sections 46a-68c to 46a-68f, inclusive; or (9) order two or more remedies or other relief designed to achieve full compliance with antidiscrimination statutes and required contract provisions. The commission shall adopt regulations, in accordance with chapter 54, to implement the provisions of this section."

² General Statute § 46a-82 (c):

The commission, whenever it has reason to believe that any contractor or subcontractor is not complying with antidiscrimination statutes or contract provisions required under section 4a-60, 4a-60a or 4a-60g or the provisions of sections 46a-68c to 46a-68f, inclusive, may issue a complaint.

³ General Statute § 4a-60:

(a) Except as provided in section 10a-151i, every contract to which an awarding agency is a party, every quasi-public agency project contract and every municipal public works contract shall contain the following provisions:

- (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut; and the contractor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved;
- (2) The contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission on Human Rights and Opportunities;
- (3) The contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(4) The contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e, 46a-68f and 46a-86; and

(5) The contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the contract is a public works contract, municipal public works contract or contract for a quasi-public agency project, the contractor agrees and warrants that he or she will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works or quasi-public agency project.

(c) Except as provided in section 10a-151i:

(1) Any contractor who has one or more contracts with an awarding agency or who is a party to a municipal public works contract or a contract for a quasi-public agency project shall include a nondiscrimination affirmation provision certifying that the contractor understands the obligations of this section and will maintain a policy for the duration of the contract to assure that the contract will be performed in compliance with the nondiscrimination requirements of subsection (a) of this section. The authorized signatory of the contract shall demonstrate his or her understanding of this obligation by (A) initialing the nondiscrimination affirmation provision in the body of the contract, (B) providing an affirmative response in the required online bid or response to a proposal question which asks if the contractor understands its obligations, or (C) signing the contract.

(2) No awarding agency, or in the case of a municipal public works contract, no municipality, or in the case of a quasi-public agency project contract, no entity, shall award a contract to a contractor that has not included the nondiscrimination affirmation provision in the contract and demonstrated its understanding of such provision as required under subdivision (1) of this subsection.

(d) For the purposes of this section, "contract" includes any extension or modification of the contract, "contractor" includes any successors or assigns of the contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "contract" does not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, unless the contract is a municipal public works contract or quasi-public agency project contract, (2) any other state, as defined in section 1-267, (3) the federal government, (4) a foreign government, or (5) an agency of a subdivision, state or government described in subdivision (1), (2), (3) or (4) of this subsection.

(e) For the purposes of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

(f) Determination of the contractor's good faith efforts shall include, but shall not be limited to, the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or

efforts as the Commission on Human Rights and Opportunities may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(g) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission on Human Rights and Opportunities, of its good faith efforts.

(h) The contractor shall include the provisions of subsections (a) and (b) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state, and in every subcontract entered into in order to fulfill any obligation of a municipal public works contract or contract for a quasi-public agency project, and such provisions shall be binding on a subcontractor, vendor or manufacturer, unless exempted by regulations or orders of the Commission on Human Rights and Opportunities. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions, including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission regarding a state contract, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

4 General Statute § 4a-60g.

(a) As used in this section and sections 4a-60h to 4a-60j, inclusive, the following terms have the following meanings:

(1) "Small contractor" means (A) any contractor, subcontractor, manufacturer, service company or corporation that (i) maintains its principal place of business in the state, and (ii) is registered as a small business in the federal database maintained by the United States General Services Administration, as required to do business with the federal government, or (B) any nonprofit corporation that (i) maintains its principal place of business in the state, (ii) had gross revenues not exceeding twenty million dollars in the most recently completed fiscal year prior to such application, and (iii) is independent.

(2) "Independent" means the viability of the enterprise of the small contractor does not depend upon another person, as determined by an analysis of the small contractor's relationship with any other person in regards to the provision of personnel, facilities, equipment, other resources and financial support, including bonding.

(3) "State agency" means each state board, commission, department, office, institution, council or other agency with the power to contract for goods or services itself or through its head.

(4) "Minority business enterprise" means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons who (i) exercise operational authority over the daily affairs of the enterprise, (ii) have the power to direct the management and policies and receive the beneficial interest of the enterprise, (iii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, and (iv) are members of a minority, as such term is defined in subsection (a) of section 32-9n, or are individuals with a disability, or (B) which is a nonprofit corporation in which fifty-one per cent or more of the persons who (i) exercise operational authority over the enterprise, (ii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, (iii) have the power to direct the management and policies of the enterprise, and (iv) are members of a minority, as defined in this subsection, or are individuals with a disability.

(5) "Affiliated" means the relationship in which a person directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(6) "Control" means the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract or through any other direct or indirect means. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, twenty per cent or more of any voting securities of another person.

(7) "Person" means any individual, corporation, limited liability company, partnership, association, joint stock company, business trust, unincorporated organization or other entity.

(8) "Individual with a disability" means an individual (A) having a physical or mental impairment that substantially limits one or more of the major life activities of the individual, which mental impairment may include, but is not limited to, having one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or (B) having a record of such an impairment.

(9) "Nonprofit corporation" means a nonstock corporation incorporated pursuant to chapter 602 or any predecessor statutes thereto, which is exempt from taxation under any provision of section 501 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time.

(10) "Municipality" means any town, city, borough, consolidated town and city or consolidated town and borough.

(11) "Quasi-public agency" has the same meaning as provided in section 1-120.

(12) "Awarding agency" means a state agency or political subdivision of the state other than a municipality.

(13) "Public works contract" has the same meaning as provided in section 46a-68b.

(14) "Municipal public works contract" means that portion of an agreement entered into on or after October 1, 2015, between any individual, firm or corporation and a municipality for the construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees but excluding any project of an alliance district, as defined in section 10-262u, financed by state funding in an amount equal to fifty thousand dollars or less.

(15) "Quasi-public agency project" means the construction, rehabilitation, conversion, extension, demolition or repair of a building or other changes or improvements in real property pursuant to a contract entered into on or after October 1, 2015, which is financed in whole or in part by a quasi-public agency using state funds, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

(b) (1) It is found and determined that there is a serious need to help small contractors, minority business enterprises, nonprofit organizations and individuals with disabilities to be considered for and awarded state contracts for the purchase of goods and services, public works contracts, municipal public works contracts and contracts for quasi-public agency projects. Accordingly, the necessity of awarding such contracts in compliance with the provisions of this section, sections 4a-60h to 4a-60j, inclusive, and sections 32-9i to 32-9p, inclusive, for advancement of the public benefit and good, is declared as a matter of legislative determination.

(2) Notwithstanding any provisions of the general statutes, and except as set forth in this section, the head of each awarding agency shall set aside in each fiscal year, for award to small contractors, on the basis of competitive bidding procedures, contracts or portions of contracts for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. The total value of such contracts or portions thereof to be set aside by each such agency shall be at least twenty-five per cent of the total value of all contracts let by the head of such agency in each fiscal year, provided a contract for any goods or services which have been determined by the Commissioner of Administrative Services to be not customarily available from or supplied by small contractors shall not be included. Contracts or portions thereof having a value of not less than twenty-five per cent of the total value of all contracts or portions thereof to be set aside shall be reserved for awards to minority business enterprises.

(3) Notwithstanding any provision of the general statutes, and except as provided in this section, on and after October 1, 2015, each municipality when awarding a municipal public works contract shall state in its notice of solicitation for competitive bids or request for proposals or qualifications for such contract that the general or trade contractor shall be required to comply with the provisions of this section and the requirements concerning nondiscrimination and affirmative action under sections 4a-60 and 4a-60a. Any such contractor awarded a municipal public works contract shall, on the basis of competitive bidding procedures, (A) set aside at least twenty-five per cent of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and (B) of that portion to be set aside in accordance with subparagraph (A) of this subdivision, reserve a portion equivalent to twenty-five per cent of the total value of the contract or portion thereof to be set aside for awards to subcontractors who

are minority business enterprises. The provisions of this section shall not apply to any municipality that has established a set-aside program pursuant to section 7-148u where the percentage of contracts set aside for minority business enterprises is equivalent to or exceeds the percentage set forth in this subsection.

(4) Notwithstanding any provision of the general statutes, and except as provided in this section, on and after October 1, 2015, any individual, firm or corporation that enters into a contract for a quasi-public agency project shall, prior to awarding such contract, notify the contractor to be awarded such project of the requirements of this section and the requirements concerning nondiscrimination and affirmative action under sections 4a-60 and 4a-60a. Any such contractor awarded a contract for a quasi-public agency project shall, on the basis of competitive bidding procedures, (A) set aside at least twenty-five per cent of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and (B) of that portion to be set aside in accordance with subparagraph (A) of this subdivision, reserve a portion equivalent to twenty-five per cent of the total value of the contract or portions thereof to be set aside for awards to subcontractors who are minority business enterprises.

(5) Eligibility of nonprofit corporations under the provisions of this section shall be limited to predevelopment contracts awarded by the Commissioner of Housing for housing projects.

(6) In calculating the percentage of contracts to be set aside under subdivisions (2) to (4), inclusive, of this subsection, the awarding agency or contractor shall exclude any contract that may not be set aside due to a conflict with a federal law or regulation.

(c) The head of any awarding agency may, in lieu of setting aside any contract or portions thereof, require any general or trade contractor or any other entity authorized by such agency to award contracts, to set aside a portion of any contract for subcontractors who are eligible for set-aside contracts under this section. Nothing in this subsection shall be construed to diminish the total value of contracts which are required to be set aside by any awarding agency pursuant to this section.

(d) The head of each awarding agency shall notify the Commissioner of Administrative Services of all contracts to be set aside pursuant to subdivision (2) of subsection (b) or subsection (c) of this section at the time that bid documents for such contracts are made available to potential contractors.

(e) The awarding authority shall require that a contractor or subcontractor awarded a contract or a portion of a contract under this section perform not less than thirty per cent of the work with the workforces of such contractor or subcontractor and shall require that not less than fifty per cent of the work be performed by contractors or subcontractors eligible for awards under this section. A contractor awarded a contract or a portion of a contract under this section shall not subcontract with any person with whom the contractor is affiliated. No person who is affiliated with another person shall be eligible for awards under this section if both affiliated persons considered together would not qualify as a small contractor or a minority business enterprise under subsection (a) of this section. The awarding authority shall require that a contractor awarded a contract pursuant to this section submit, in writing, an explanation of any subcontract to such contract that is entered into with any person that is not eligible for the award of a contract pursuant to this section, prior to the performance of any work pursuant to such subcontract.

(f) The awarding authority may require that a contractor or subcontractor awarded a contract or a portion of a contract under this section furnish the following documentation: (1) A copy of the certificate of incorporation, certificate of limited partnership, partnership agreement or other organizational documents of the contractor or subcontractor; (2) a copy of federal income tax returns filed by the contractor or subcontractor for the previous year; (3) evidence of payment of fair market value for the purchase or lease by the contractor or subcontractor of property or equipment from another contractor who is not eligible for set-aside contracts under this section; (4) evidence that the principal place of business of the contractor or subcontractor is located in the state; and (5) for any contractor or subcontractor certified under subsection (k) of this section on or after October 1, 2021, evidence of registration as a small business in the federal database maintained by the United States General Services Administration, as required to do business with the federal government.

(g) The awarding authority or the Commissioner of Administrative Services or the Commission on Human Rights and Opportunities may conduct an audit of the financial, corporate and business records and conduct an investigation of any small contractor or minority business enterprise which applies for or is awarded a set-aside contract for the purpose of determining eligibility for awards or compliance with the requirements established under this section.

(h) The provisions of this section shall not apply to (1) any awarding agency for which the total value of all contracts or portions of contracts of the types enumerated in subdivision (2) of subsection (b) of this section is anticipated to be equal to ten thousand dollars or less, or (2) any municipal public works contract or contract for a quasi-public agency project for which the total value of the contract is anticipated to be equal to fifty thousand dollars or less.

(i) In lieu of a performance, bid, labor and materials or other required bond, a contractor or subcontractor awarded a contract under this section may provide to the awarding authority, and the awarding authority shall accept a letter of credit. Any such letter of credit shall be in an amount equal to ten per cent of the contract for any contract that is less than one hundred thousand dollars and in an amount equal to twenty-five per cent of the contract for any contract that exceeds one hundred thousand dollars.

(j) (1) Whenever the awarding agency has reason to believe that any contractor or subcontractor awarded a state set-aside contract has wilfully violated any provision of this section, the awarding agency shall send a notice to such contractor or subcontractor by certified mail, return receipt requested. Such notice shall include: (A) A reference to the provision alleged to be violated; (B) a short and plain statement of the matter asserted; (C) the maximum civil penalty that may be imposed for such violation; and (D) the time and place for the hearing. Such hearing shall be fixed for a date not earlier than fourteen days after the notice is mailed. The awarding agency shall send a copy of such notice to the Commission on Human Rights and Opportunities.

(2) The awarding agency shall hold a hearing on the violation asserted unless such contractor or subcontractor fails to appear. The hearing shall be held in accordance with the provisions of chapter 54. If, after the hearing, the awarding agency finds that the contractor or subcontractor has wilfully violated any provision of this section, the awarding agency shall suspend all set-aside contract payments to the contractor or subcontractor and may, in its discretion, order that a civil penalty not exceeding ten thousand dollars per violation be imposed on the contractor or subcontractor. If such contractor or subcontractor fails to appear for the hearing, the awarding agency may, as the facts require, order that a civil penalty not exceeding ten thousand dollars per violation be imposed on the contractor or subcontractor. The awarding agency shall send a copy of any order issued pursuant to this subsection by certified mail, return receipt requested, to the contractor or subcontractor named in such order. The awarding agency may cause proceedings to be instituted by the Attorney General for the enforcement of any order imposing a civil penalty issued under this subsection.

(k) (1) On or before January 1, 2000, the Commissioner of Administrative Services shall establish a process for certification of small contractors and minority business enterprises as eligible for set-aside contracts. Each certification shall be valid for a period not to exceed two years, unless the Commissioner of Administrative Services determines that an extension of such certification is warranted, provided any such extension shall not exceed a period of six months from such certification's original expiration date. Any certification issued prior to October 1, 2021, shall remain valid for the term listed on such certification unless revoked pursuant to subdivision (2) of this subsection. The Department of Administrative Services shall maintain on its web site an updated directory of small contractors and minority business enterprises certified under this section.

(2) The Commissioner of Administrative Services may deny an application for the initial issuance or renewal of such certification after issuing a written decision to the applicant setting forth the basis for such denial. The commissioner may revoke such certification for cause after notice and an opportunity for a hearing in accordance with the provisions of chapter 54. Any person aggrieved by the commissioner's decision to

deny the issuance or renewal of or to revoke such certification may appeal such decision to the Superior Court, in accordance with the provisions of section 4-183.

(3) Whenever the Commissioner of Administrative Services has reason to believe that a small contractor or minority business enterprise who has applied for or received certification under this section has included a materially false statement in his or her application, the commissioner may impose a penalty not exceeding ten thousand dollars after notice and a hearing held in accordance with chapter 54. Such notice shall include (A) a reference to the statement or statements contained in the application alleged to be false, (B) the maximum civil penalty that may be imposed for such misrepresentation, and (C) the time and place of the hearing. Such hearing shall be fixed for a date not later than fourteen days from the date such notice is sent. The commissioner shall send a copy of such notice to the Commission on Human Rights and Opportunities.

(4) The commissioner shall hold a hearing prior to such revocation or denial or the imposition of a penalty, unless such contractor or subcontractor fails to appear. If, after the hearing, the commissioner finds that the contractor or subcontractor has wilfully included a materially false statement in his or her application for certification under this subsection, the commissioner shall revoke or deny the certification and may order that a civil penalty not exceeding ten thousand dollars be imposed on the contractor or subcontractor. If such contractor or subcontractor fails to appear for the hearing, the commissioner may, as the facts require, revoke or deny the certification and order that a civil penalty not exceeding ten thousand dollars be imposed on the contractor or subcontractor. The commissioner shall send a copy of any order issued pursuant to this subsection to the contractor or subcontractor named in such order. The commissioner may cause proceedings to be instituted by the Attorney General for the enforcement of any order imposing a civil penalty issued under this subsection.

(l) On or before August thirtieth of each year, each awarding agency setting aside contracts or portions of contracts under subdivision (2) of subsection (b) of this section shall prepare a report establishing small and minority business state set-aside program goals for the twelve-month period beginning July first in the same year. Each such report shall be submitted to the Commissioner of Administrative Services, the Commission on Human Rights and Opportunities and the cochairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and government administration.

(m) On or before November first of each year and on a quarterly basis thereafter, each awarding agency setting aside contracts or portions of contracts under subdivision (2) of subsection (b) of this section shall prepare a status report on the implementation and results of its small business and minority business enterprise state set-aside program goals during the three-month period ending one month before the due date for the report. Each report shall be submitted to the Commissioner of Administrative Services and the Commission on Human Rights and Opportunities. Any awarding agency that achieves less than fifty per cent of its small contractor and minority business enterprise state set-aside program goals by the end of the second reporting period in any twelve-month period beginning on July first shall provide a written explanation to the Commissioner of Administrative Services and the Commission on Human Rights and Opportunities detailing how the awarding agency will achieve its goals in the final reporting period. The Commission on Human Rights and Opportunities shall: (1) Monitor the achievement of the annual goals established by each awarding agency; and (2) prepare a quarterly report concerning such goal achievement. The report shall be submitted to each awarding agency that submitted a report, the Commissioner of Economic and Community Development, the Commissioner of Administrative Services and the cochairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and government administration. Failure by any awarding agency to submit any reports required by this section shall be a violation of section 46a-77.

(n) Nothing in this section shall be construed to apply to the janitorial or service contracts awarded pursuant to subsections (b) to (d), inclusive, of section 4a-82.

(o) The Commissioner of Administrative Services may adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of this section.

⁵ General Statute § 4a-60h.

(a) The Commissioner of Administrative Services shall be responsible for the administration of the set-aside program for public works contracts and state contracts for goods and services, as described in subdivision (2) of subsection (b) of section 4a-60g. The commissioner shall conduct regular training sessions, as often as the commissioner deems necessary, for state agencies to explain the state set-aside program and to specify the factors that must be addressed in calculating awarding agency goals under the program. The commissioner shall conduct informational workshops to inform businesses of state set-aside opportunities and responsibilities.

(b) The Commission on Human Rights and Opportunities shall be responsible for the administration of the set-aside program for municipal public works contracts and contracts for quasi-public agency projects, as described in subdivisions (3) and (4) of subsection (b) of section 4a-60g. The commission shall conduct regular training sessions, as often as the commission deems necessary, for municipalities, quasi-public agencies and contractors to explain the municipal and quasi-public agency project set-aside program. The commission may adopt regulations in accordance with the provisions of chapter 54, to carry out the purposes of sections 4a-60g to 4a-60j, inclusive, in regard to the municipal and quasi-public agency project set-aside program.

(c) In any case where an individual contract is both a public works contract of an awarding agency and a quasi-public agency project contract, the provisions of this chapter governing awarding agency public works contracts shall apply to such contract.

(d) The Commissioner of Administrative Services shall adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of sections 4a-60g to 4a-60j, inclusive, in regard to the state set-aside program. Such regulations shall include (1) provisions concerning the application of the program to individuals with a disability; (2) guidelines for a legally acceptable format for, and content of, letters of credit authorized under subsection (j) of section 4a-60g; (3) procedures for random site visits to the place of business of an applicant for certification at the time of application and at subsequent times, as necessary, to ensure the integrity of the application process; and (4) time limits for approval or disapproval of applications.

(e) On or before January 1, 1994, the Commissioner of Administrative Services shall, by regulations adopted in accordance with chapter 54, establish a process to ensure that small contractors, small businesses and minority business enterprises have fair access to all competitive state contracts outside of the state set-aside program.

⁶General Statute § 46a-68c.

In addition to the provisions of section 4a-60, each contractor with fifty or more employees awarded a public works contract, municipal public works contract or contract for a quasi-public agency project in excess of fifty thousand dollars in any fiscal year, but not subject to the provisions of section 46a-68d, shall develop and file with the Commission on Human Rights and Opportunities an affirmative action plan which shall comply with regulations adopted by the commission. The executive director or the executive director's designee shall review and formally approve, conditionally approve or disapprove the content of the affirmative action plan not later than one hundred twenty days following the date of the submission of the plan to the commission. If the executive director or the executive director's designee fails to approve, conditionally approve or disapprove a plan within such one-hundred-twenty-day period, the plan shall be deemed to be either approved or deficient without consequence. The executive director or the executive director's designee shall, not later than fifteen days after the date of deeming an affirmative action plan

approved or deficient without consequence, provide the contractor with written notification of the action taken with respect to such plan. Failure to develop an affirmative action plan that is either approved or deficient without consequence shall act as a bar to bidding on or the award of future contracts until such requirement has been met. When the executive director or the executive director's designee approves an affirmative action plan pursuant to this section, the executive director or the executive director's designee shall issue a certificate of compliance to the contractor. Such certificate shall be prima facie proof of the contractor's eligibility to bid or be awarded contracts for a period of two years from the date of the certificate. Such certificate shall not excuse the contractor from monitoring by the commission or from the reporting and record-keeping requirements of sections 46a-68e and 46a-68f. The executive director or the executive director's designee may revoke the certificate of a contractor if the contractor does not implement its affirmative action plan in compliance with this section and sections 4a-60, 4a-60g, 4a-62, 46a-56, 46a-68b, 46a-68d, and 46a-68e to 46a-68k, inclusive.

General Statute § 46a-68d.

In addition to the provisions of section 4a-60, every public works contract, municipal public works contract or contract for a quasi-public agency project subject to the provisions of part II of chapter 60 shall also be subject to the provisions of this section. After a bid has been accepted but before a contract is awarded, the successful bidder shall file with and have obtained the approval of the executive director or the executive director's designee for an affirmative action plan. The executive director or the executive director's designee may provide for conditional acceptance of an affirmative action plan provided written assurances are given by the contractor that it will amend its plan to conform to affirmative action requirements. In the case of a public works contract, the state shall withhold two per cent of the total contract price per month from any payment made to such contractor until such time as the contractor has developed an affirmative action plan, and received the approval of the executive director or the executive director's designee. In the case of a municipal public works contract or contract for a quasi-public agency project, the municipality or entity, as applicable, shall withhold two per cent of the total contract price per month from any payment made to such contractor until such time as the contractor has developed an affirmative action plan and received the approval of the commission. Notwithstanding the provisions of this section, a contractor subject to the provisions of this section may file a plan in advance of or at the same time as its bid. The executive director or the executive director's designee shall review plans submitted pursuant to this section within sixty days of receipt and either approve, approve with conditions or reject such plan. When the executive director or the executive director's designee approves an affirmative action plan pursuant to this section, the executive director or the executive director's designee shall issue a certificate of compliance to the contractor as provided in section 46a-68c.

General Statute § 46a-68e.

Each contractor shall file, and shall cause each of his subcontractors to file, with the commission such compliance reports at such times as the commission may direct. Compliance reports shall contain such information as to the practices, policies, programs and employment policies, employment programs, and employment statistics of the contractor and each subcontractor and be in such form as the commission may prescribe.

General Statute § 46a-68f

Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the compliance report shall include information pertaining to such labor union's or agency's practices and policies affecting compliance, as the commission may prescribe; provided, to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency refuses to furnish information to the contractor, the contractor shall so certify to the commission as part of its compliance report and shall set forth what efforts have been made to obtain such information.