



State of Connecticut  
***STATE CONTRACTING  
STANDARDS BOARD***

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***FINDINGS AND RECOMMENDATIONS OF  
THE STATE CONTRACTING STANDARDS  
BOARD***

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Pursuant to Executive Order 7c

**Consolidated Uniform  
Procurement Code Report**

DECEMBER 28, 2006

*STATE CONTRACTING STANDARDS BOARD*

*STATE OF CONNECTICUT*

*DECEMBER 28, 2006*

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**TABLE OF CONTENTS**

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STATE CONTRACTING STANDARDS BOARD MEMBERS	page 3
EXECUTIVE SUMMARY	page 4
FINDINGS AND RECOMMENDATIONS OF THE BOARD	page 6
<i>Introduction</i>	page 6
<i>Executive Order Board Objectives</i>	page 7
<i>The Work of the Board</i>	page 8
Flowchart Mapping Sessions and Interim Report	page 8
Uniform Procurement Code Development	page 9
SUMMARY OF THE PROPOSAL	page 10
<i>General Recommendations</i>	page 10
<i>Consolidated Uniform Procurement Code</i>	page 13
OTHER RECOMMENDATIONS	page 14
THE RESULTS OF THE FLOWCHART MAPPING SESSIONS WITH EXECUTIVE BRANCH AGENCIES	Appendix A
THE STATE CONTRACTING STANDARDS BOARD STAFF AND ORGANIZATIONAL STRUCTURE	Appendix B

# *STATE CONTRACTING STANDARDS BOARD*

*STATE OF CONNECTICUT*

*DECEMBER 28, 2006*

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## ***STATE CONTRACTING STANDARDS BOARD*** **MEMBERS**

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Amalia Vazquez Bzdyra, Chair  
Francis R. Coyle  
Gary Dilk

Albert Ilg  
Wendy E. Scaringe  
John M. Whitcomb

The State Contracting Standards Board would like to thank all of those who assisted us in garnering a better understanding of the procurement processes of the State; including the agency heads, procurement staff and employees of most state contracting agencies, such as, the Office of Policy and Management, the Departments of Administrative Services, Transportation, Public Works and Information Technology, Social Services, Mental Retardation, Mental Health and Addiction Services, Insurance and Public Utility Control, the Office of State Ethics, the Elections Enforcement Commission, the Commission on Human Rights and Opportunities, constituent units of the state system of higher education, quasi-public entities, the constitutional officers, non-profit providers, contractors, labor union representatives, municipal procurement employees and members of the general public. Certainly the work of this Board could not have been completed without the sharing of knowledge, insight and collaboration by all of those who participated in our process.

In particular, the Chair would like to express her gratitude to the Commissioner of the Department of Administrative Services, Linda Yelmini, for her support and assistance throughout this process.

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## EXECUTIVE SUMMARY

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Governor M. Jodi Rell by Executive Order created the State Contracting Standards Board (the "Board") in June of 2005, requiring the preparation of a uniform procurement code on or before January 1, 2007, and taking into cognizance the work of the bi-partisan State Contracting Reform Task Force.

In November of 2005 the Board organized and commenced a series of meetings with procurement/contracting agencies and other stakeholders in the system in order to obtain background and to develop a complete knowledge of the state procurement processes.

The Board began "...a comprehensive review of existing state contracting and procurement laws, regulations, procedures and practices" by documenting the existing procurement processes in a baseline flowchart map of the major procuring agencies.

In accordance with the Executive Order, the Board will be submitting a "Consolidated Uniform Procurement Code" to the Governor and the General Assembly on or before January 15, 2007. This proposed legislation provides the State of Connecticut with a first legislative step toward creating an integrated and uniform statutory structure for procurement reform. It should be noted that the proposed uniform code is not a final product. As the mapping report demonstrates, this proposed legislation is an essential first-step toward creating a linear statutory system within the context of the ABA Model Procurement Code. Article I of the proposed legislation provides the statutory foundation for the Board, which will take effect upon passage.

The remainder of the legislation reconfigures most of the current statutory procurement provisions, (including redundant and inconsistent provisions) into the structure of the ABA Model Code. The proposed legislation represents an attempt by the Board to consolidate in one place all state procurement laws and regulation. It is an imperfect document that will require significant legislative and administrative work. In this regard, the current Board will immediately commence the process of working with Commissioners and agencies to prepare additional legislation designed to eliminate repetitive, conflicting or obsolete provisions, prior to the July 1, 2008 effective date.

The Board, in order to carry out the directives of the Executive Order designed an operation structure to reinforce integrity, best value, innovation and accountability into the state procurement processes. Below are the major organizational recommendations included in the proposed legislation:

- Establish a State Contracting Standards Board as the central oversight and policy body for all state procurement;
- Create the position of the Chief Procurement Officer, an experienced procurement professional, to implement the policies and directives of the Board;

# STATE CONTRACTING STANDARDS BOARD

STATE OF CONNECTICUT

DECEMBER 28, 2006

- Require each agency head to appoint a qualified Agency Procurement Officer to oversee all procurement activities of the agency and to serve as the liaison to the Chief Procurement Officer;
- Develop a standardized state procurement and project management education and training program;
- Certify that agencies and staff are in compliance with Code;
- Sets forth the enforcement authority of the Board including the ability to restrict or eliminate the procurement authority of any state agency;
- Establish a structured process that all state agencies shall follow when entering into a privatization agreement, including, a cost benefit analysis;
- Require CHRO to conduct a disparity study to examine if there is a significant evidence of discrimination in the way State contracting dollars are expended; and
- Recommends a time-line to redesign and streamline the repetitive, conflicting or obsolete provisions of law; including integrated provisions of the proposed Code.

The Board understands that the changes it is proposing are significant and will take time to properly implement. Therefore, the Board proposes the following effective date schedule:

- The provisions governing the structure and duties of the Board shall take effect from passage,
- The Code will go into effect on July 1, 2008 for all contracting state agencies,
- The applicability of the provisions of the Code for quasi-public entities and constituent units of state system of higher education is July 1, 2009, and
- On July 1, 2010 the provisions of the act shall apply to municipalities' procurement involving state funds.

The proposal also requires that the Constitutional Officers of the State, the Judicial Branch and the Legislative Branch develop a procurement code applicable to their own contracting processes by January 1, 2009. Also, on October 1, 2009 the powers, duties and obligations of the State Properties Review Board will be transferred to the State Contract Standards Board.

The Board also makes additional recommendations that are not contained in the proposed legislation but would bring added value to the State's procurement system. In particular, the Board believes that a state procurement system should provide increased economy in state procurement activities and maximize purchasing value to the fullest extent possible in order to obtain supplies, materials, equipment, services, real property and construction in a cost-effective and responsive manner. A first step is to develop performance standards for all state contracting agencies to track and make every effort to achieve cost savings.

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## FINDING AND RECOMMENDATIONS OF THE BOARD

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### *Introduction*

On July 8, 2004 Governor M. Jodi Rell announced the creation of a task force on state contracting reform. This bipartisan task force was directed to ensure that the "...contracting processes reflect the highest standards of integrity, are clean and consistent and are conducted in the most efficient manner possible to enable state agencies to deliver programs and serve our citizens".

The State Contracting Reform Task Force ("Task Force") diligently accomplished this goal and issued a number of recommendations. One of the recommendations was to establish a permanent oversight board to oversee state agency procurement processes to ensure consistency and adherence to all contracting requirements. That recommendation mirrors the provisions of legislation recommended by Governor Rell and supported by a majority of the General Assembly on three occasions. Due to disagreements on other issues the legislation has not been enacted into law.

In order to commence the process of reforming the state procurement system the Governor, by Executive Order, created the State Contracting Standards Board (The "Board") on June 30, 2005. As such the Board's powers are limited as advisory only and, thus, the Board had no access to its appropriated funds. It is in this context and with a due date of January 1, 2007 that the Board, comprised of 6 members, took on the challenge of meeting the complex directives of Executive Order and giving thoughtful consideration to the recommendations of the Task Force. The following Task Force recommendations were addressed or adopted by the Board.

**#1** - "Adopt a statewide procurement and contract code and a Contract Standards and Properties Review Board to administer this."

**#2** - "Elevate the state's commitment to ethical conduct for public officials, state employees and for contractors."

**#3** - "Improve professional development opportunities for state employees."

**#5** - "Implement a single purchasing portal for all state bid and contract information."

**#6** - "Restrict or eliminate the legislature's authority to enact special legislation"

# *STATE CONTRACTING STANDARDS BOARD*

*STATE OF CONNECTICUT*

*DECEMBER 28, 2006*

The summary recommendations and the full report of the Task Force is available at [http://www.ct.gov/governorrell/lib/governorrell/SCRTF\\_Final\\_090104.pdf](http://www.ct.gov/governorrell/lib/governorrell/SCRTF_Final_090104.pdf).

## ***Executive Order Board Objectives***

The Governor, in the Executive Order, directed the Board to instill integrity into state procurement process through standardization, efficiency, accountability, education and training, and oversight. The objectives of the Board as set forth in the Executive Order are to:

- establish uniform contracting standards and practices among the various state contracting agencies;
- simplify and clarify the state's laws and regulations governing procurement and contracting standards, policies and practices, including, but not limited to, procedures concerning the solicitation and evaluation of competitive sealed bids, proposals and quotations, small purchases, sole source procurements and emergency procurements;
- ensure the fair and equitable treatment of all businesses and persons who deal with the procurement system of the state;
- include a process to maximize the use of small contractors and minority business enterprises, or individuals with a disability, all as more specifically defined in Section 4a-60g of the general statutes;
- provide increased economy in state procurement activities and maximize purchasing value to the fullest extent possible;
- ensure that the procurement of supplies, materials, equipment, services, real property and construction required by any state contracting agency is obtained in a cost-effective and responsive manner;
- preserve and maintain the existing contracting, procurement, disqualification, suspension and termination authority and discretion of any state contracting agency when such contracting and procurement procedures represent best practices;
- include a process to improve contractor and state contracting agency accountability;
- include standards by which state contracting agencies must solicit and evaluate proposals to privatize state or quasi-public agency services;

# *STATE CONTRACTING STANDARDS BOARD*

*STATE OF CONNECTICUT*

*DECEMBER 28, 2006*

- establish standards for leases and lease-purchase agreements and for the purchase, sale or transfer of other interests in real property;
- promote a well trained, educated workforce;
- establish an effective oversight process to ensure all contracts adhere to the established procurement processes; and
- promote an effective way for contractors, the procurement workforce and the general public to report fraud, waste and abuse in the state contracting system.

## *The Work of the Board*

In November of 2005 the Board organized and commenced a series of meetings with state contracting agencies and other stakeholders in order to obtain background information and to develop a complete knowledge of the state procurement processes. They met with the following: the Office of Policy and Management (OPM); the Departments of Administrative Services (DAS), Transportation (DOT), Public Works (DPW), Information Technology (DOIT), Social Services (DSS), Mental Retardation (DMR), Mental Health and Addiction Services (DMHAS), Insurance (DOI), and Public Utility Control (DPUC); the Office of State Ethics (OSE); the Elections Enforcement Commission (EEC); the Commission on Human Rights and Opportunities (CHRO); constituent units of the state system of higher education; certain quasi-public entities; certain constitutional officers; non-profit providers; and, labor union representatives.

The Board also held two public hearings in July - one in Hartford and the other in Bridgeport - where agency representatives, contractors, municipal procurement employees, and members of the general public testified. All of the comments and knowledge gained from the testimony and discussion were used to develop the recommendations of the Board.

## **Flowchart Mapping Sessions and Interim Report**

In order to develop a consolidated uniform procurement code, the Board set out to conduct a "...review of existing state contracting and procurement laws, regulations, procedures and practices" by mapping the current procurement practices and processes. The Board developed a baseline flowchart map of the major State procuring agencies - the Department of Administrative Services, the Department of Information Technology, the Department of Public Works, and the Department of Transportation, with input also from the Office of Policy and Management, constituent units of the state system of higher education, Department of Social Services, Department of Mental Retardation, Department of Mental



# *STATE CONTRACTING STANDARDS BOARD*

*STATE OF CONNECTICUT*

*DECEMBER 28, 2006*

Health and Addiction Services, Department of Insurance, Department of Public Utility Control and certain quasi-public entities.

The mapping sessions were a vehicle to allow Board members to focus on the procurement processes of each major contracting agency. The mapping sessions also gave the agencies an opportunity to express issues and concerns regarding procurement as well as the similarities and differences of the procurement processes throughout the State. Please see **Attachment A**, which contains the interim report on “The Mapping and Assessment of the State Procurement Processes “ and also contains the flowchart maps for the major procurement agencies.

The mapping session and resulting flowcharts demonstrate that there are many different types of procurement processes through out the state. The flowchart maps demonstrate the lack of standardization, as well as the potential areas for process improvement and reform. The Board will continue this mapping work with agencies.

## **Uniform Procurement Code Development**

To create and draft a Uniform Procurement Code, the Board researched and reviewed several models and what other state have adopted in this area. The Board utilized the “American Bar Association Model Procurement Code for State and Local Governments” (“ABA Model Code”) as the basis for the structure contained within the proposed legislation.

The ABA Model Code allows for the fulfillment of many of the mandates in the Executive Order by providing: clear statements of procurement practices and standards, fair and equitable competition, ethics, predictability, stability, accountability, equitable treatment of bidders/proposers, equitable treatment of minority, small and disadvantaged contractors, and legal and contractual remedies. The proposed legislation shares those objectives.

Again, the objectives must be the guiding principle for the Board, and ultimately the General Assembly prior to the effective date of July 1, 2008 when repetitive, conflicting or obsolete provisions of law (including those transferred to the Consolidated Uniform Procurement Code) must be addressed.

The proposed legislation will be submitted on or before January 15, 2007 to the clerks of the House of Representatives and the Senate as directed by the Executive Order.

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## SUMMARY OF THE CONSOLIDATED UNIFORM PROCUREMENT CODE PROPOSAL

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The Consolidated Uniform Procurement Code (“Code”) proposal contains two parts.

First, are the **General Recommendations**, which sets forth the powers and duties of the Board, the proposed structure for oversight and accountability and a program of education and training.

Second, are the remaining statutory provisions of the **Consolidated Uniform Procurement Code**, which proposes to place all of the procurement laws of the State into a separate title within the general statutes.

### General Recommendations

Article 1, Part 1 establishes the State Contracting Standards Board as an independent board that is the central procurement policy body, with thirteen members who are appointed by the Governor and the leaders of the General Assembly. A flowchart of the proposed Board organizational structure is contained in **Appendix B**.

The major provisions of Part One:

- Set forth the authority and duties assigned to the Board. While the Board becomes the sole policy body for procurement in the State, purchasing authority and procurement staff management remains with each state contracting agency;
- Create the position of Chief Procurement Officer, an experienced procurement professional, responsible for overseeing and monitoring the implementation of the Code by state agencies, carrying out the policies of the Board including oversight, investigation, auditing, agency procurement certification, establishing procurement and project management training standards, acting as liaison between the Board and state agencies and reporting to the Board any issues an agency may have;
- Require each agency head to appoint a qualified Agency Procurement Officer to oversee all procurement activities of the agency and to serve as the liaison to the Chief Procurement Officer;

# *STATE CONTRACTING STANDARDS BOARD*

*STATE OF CONNECTICUT*

*DECEMBER 28, 2006*

- Establish the position of Executive Director appointed by the Governor to manage the day-to-day activities of the Board (including human resources, budget and planning, training and education administration and external liaison) and serve as an ex-officio nonvoting member of the Board;
- Require the Board to develop standardized state procurement and project management education and training programs for public officials and persons charged with procurement responsibility;
- Require the Board to, at least triennially, audit state agencies to ensure compliance with procurement laws;
- Set forth the enforcement authority of the Board including the ability to restrict or eliminate the procurement authority of any state agency and further establishes procedures to cancel contracts;
- Establish a Contracting Standards Advisory Council comprised of representatives from OPM, DAS, DOT, DPW, DOIT and others to make recommendations for improvements to the contracting process and recommend “best practices” for the procurement system;
- Establish a Vendor and Citizen Advisory Panel appointed by the Governor and legislative leaders and comprised of vendor, citizens and others;
- Adopt the provisions of Public Act 06-1 restricting the legislature’s authority to enact special legislation pertaining to procurement;
- Establish a structured process that all state agencies shall follow when entering into a privatization agreement, including a business case based upon certain criteria for submittal to the Board for approval;
- Purchases involving federal funds are exempt; and
- Requires CHRO, in consultation with OPM and DAS, to conduct a disparity study to examine if there is significant evidence of discrimination in the way that State contracting dollars are expended;

The Code provides for the following effective dates.

- The provisions governing the structure and duties of the Board shall take effect from passage,

# STATE CONTRACTING STANDARDS BOARD

STATE OF CONNECTICUT

DECEMBER 28, 2006

- The Code will go into effect on July 1, 2008 for all state contracting agencies,
- The applicability of the provisions of the Code for quasi-public entities and constituent units of the state system of higher education is July 1, 2009, and
- On July 1, 2010 the provisions of the act shall apply to municipalities' procurement involving state funds.

The Code also requires the Board to submit necessary legislation on January 1 of each year to make certain that the requirements of the affected entities are addressed prior to the applicable effective date.

In particular, the Code becomes effective for the constituent units of the state system of higher education and the quasi-public entities a year later than most state contracting agencies even though they are a part of the Executive Branch and appear to purchase many of the same commodities and services available off the statewide contracts. The Board has not had sufficient time or resources to conduct a comprehensive review of the complex nature in which higher education and the quasi-public entities conduct their procurements, identify the types of high volume commodities and services they procure and determine if statutory requirements may differ from the rest of the Executive Branch.

The proposal also requires that the Constitutional Officers of the State, the Judicial Branch and the Legislative Branch develop a procurement code applicable to their own contracting processes by January 1, 2009. Also, on October 1, 2009 the powers, duties and obligations of the State Properties Review Board will be transferred to the State Contract Standards Board.

## Consolidated Uniform Procurement Code

The proposed Consolidated Uniform Procurement Code follows the ABA structure and also incorporates current statutes, regulations, policies and practices. The primary result of the proposed legislation is to take all the procurement statutes, which are currently placed throughout the general statutes and codify them under a separate Title. By completing this task the Board has taken a necessary step toward standardization and transparency. The Board's proposal seeks to unify all the procurement statutes that currently exist, develop a structure to strengthen oversight, professionalism and accountability and begin to standardize the procurement processes of the State into a unified whole. That task of reforming the current statutory scheme will continue over the coming year in conjunction with each agency in order to meet the July 1, 2008 effective date.

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## OTHER RECOMMENDATIONS

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The following are the Board's recommendations, which are not included in the proposed Consolidated Uniform Procurement Code but were relevant to the conclusions of the Board.

- ❑ The effect of a False Claims Act on the State should be further studied and investigated.
- ❑ The Board recognizes there are several issues regarding the multiple affidavits now required. The Board is committed to working with state agencies, the Office of State Ethics and the Elections Enforcement Commission to streamline this process. The Board recommends further study and coordination in the area.
- ❑ The Board recommends that the Office of the Attorney General establish contract templates with each state contracting agency or entity by July 1, 2008.
- ❑ The Board would like to encourage the use of electronic purchasing and the use of electronic payment by the state to its vendors, wherever possible.
- ❑ Within the proposal is the requirement to conduct a disparity study; however in addition the Board would like to continue to review and fully understand the treatment of participants, in the state's set aside program, including those who become subcontractors to state vendors.
- ❑ Contractors often begin work before having a signed and legal contract. This occurs most often in the human services area. The Board recommends that each agency head require its procurement staff to evaluate the status of all contracts, at least, ninety days prior to the expiration date, which should also serve as a reminder to the agency that it must renew, rebid, amend or terminate the contract.
- ❑ Further in depth study and research must be conducted pertaining to sole source and emergency mechanisms. The Code should begin to address some of these issues. Furthermore, the Board would like to document these processes more closely and begin to standardize and reform them.
- ❑ The Board has some concerns about the current whistleblower process. Not all whistleblower complaints begin at the Auditors of Public Accounts ("Auditors") and there seems to be unclear reporting requirements for the Attorney General to report complaints to the Auditor even though the Auditor is required to report to the Attorney General. The Board finds that further study and review in this area will

## *STATE CONTRACTING STANDARDS BOARD*

*STATE OF CONNECTICUT*

*DECEMBER 28, 2006*

most likely result in proposed legislation to clarify and strengthen the whistleblower statutes.

- ❑ The Master Agreement contracts at the Department of Information Technology enable the agency to keep up with the ever-changing information technology environment. However, it is not clear if this type of contract, which has the effect of providing a vendor with a permanent agreement and requires only a product schedule update to purchase from it, provides the best value for the State and/or ensures competition. Further review and investigation is needed.
- ❑ The Board found inconsistencies regarding late or delayed payments to vendors. This concern seems to reside with individual agencies, where timely payments should be a higher priority. This requires further review by the Board.
- ❑ The Board is encouraged that OPM is revising the processes governing Personal Service Agreements and Purchase of Service contracts. Value and competition through periodic bidding will add to the transparency of these contracts. The Board expects to work with OPM to incorporate these changes into the Code and further study these processes.
- ❑ The Board would like to encourage the development of performance standards including standards for process timing, quality review, cost savings and customer relations. The Board expects to investigate performance standards as it continues its work.

EDP 12/28/06

## **APPENDIX A**

# **INTERIM REPORT -- MAPPING AND ASSESSMENT OF THE STATE PROCUREMENT PROCESSES**

For a copy of the Interim Report please contact:

Beth Petroni, Internal Consultant to the SCSB,

State Office Building, Room 173, 165 Capitol Avenue, Hartford, CT 06106

Phone: (860) 713-5498

E-mail: [Beth.Petroni@ct.gov](mailto:Beth.Petroni@ct.gov)

**APPENDIX B**

**THE PROPOSED STRUCTURE OF THE  
STATE CONTRACTING STANDARDS  
BOARD**



# STATE CONTRACTING STANDARDS BOARD

STATE OF CONNECTICUT

DECEMBER 28, 2006

## State Contracting Standards Board

### Proposed Board Structure December 28, 2006

