

Connecticut State Contracting Standards Board  
Privatization Contracting for State Agencies Guidelines

Procedure for Privatization Contracts

The governing statutes for privatization contracts can be found in the Connecticut General Statutes Chapter 62 Section 4e-16. Contracts subject to review and approval by the State Contracting Standards Board (hereafter “the Board”) are those concerning state services that are not currently privatized.

There are delineated steps a state agency must take when preparing to enter into a privatization contract for a state service.

1. The state agency shall conduct a cost-benefit analysis *prior* to entering a privatization contract (Sec. 4e-16(b)).
2. If the cost-benefit analysis determines at least a 10% cost savings **and** no diminishment of quality of service, *then* the state agency shall develop a business case.
  - a. If the cost-benefit analysis determines less than a 10% cost savings and no diminishment of quality of service, then the state agency shall develop a business case inclusive of a significant public policy reason to enter into a privatization contract. (Sec. 4e-16(c)2)
3. If there is to be a layoff, transfer or reassignment of 100 or more state agency employees, the state agency must notify the bargaining units and state employees *after* a cost-benefit analysis has been completed. The agency must provide an opportunity for the state employees to reduce the costs. The state agency must provide all reasonable resources to help affected employees organize and submit a bid. (Sec. 4e-16(c)3)
4. Submit the business case to the Board thru the Chief Procurement Officer, who will refer it to the Privatization Contract Committee. (Sec. 4e-16(e))
  - a. If the contract has a project cost exceeding \$150 million annually or \$600 million over the whole term of the contract, the state agency must also submit the business case to the Governor, the president pro tempore of the Senate, the speaker of the House of Representatives, and any collective bargaining unit affected by the proposed privatization contract.
5. Within 60 days of receipt the Board shall transmit a report detailing its review, evaluation and disposition regarding such business case to the state contracting agency, and in the case of 4a above, the noted members. (Sec. 4e-16(h))
6. If the Board does not vote to approve, disapprove or extend review then the case shall be approved, except in the event that the Board did not meet within those 60 days. (Sec. 4e-16(h)3)
  - a. The state contracting agency may request an expedited review, with compelling public interest as determined by the Board. In such case review must be completed within 30 days of receipt of request that was approved by the Board. Failing to meet the 30-day requirement of an expedited review approved by the Board, the case will be deemed approved.

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7. Only *after* the Board has approved a business case, may a state contracting agency publish a notice soliciting bids for a privatization contract. (Sec. 4e-16(i))
  - a. If the project contract costs exceed \$150 million annually or \$600 million over the life of the contract, then the General Assembly *prior* to bid solicitation.
8. Within 30 days of a decision by the Board to approve a business case, any bargaining agent of any employee adversely affected by such proposed privatization contract may file a motion for an order to show cause in the superior court for the judicial district of Hartford on the grounds that such contract fails to comply with the substantive or procedural requirements of Section 4e-16. (Sec. 4e-16(k))
  - a. If the motion is denied then the state contracting agency may proceed with soliciting bids and executing contracts.

Items Necessary for Review:

- Completed cost-benefit analysis (see Attachment A)
- Business case and supporting documents (see Attachment B)
- Notification to bargaining units and affected employees (*if necessary*)
- Submission to Governor and specified legislators (*if necessary*)
- Submission to the State Contracting Standards Board

Receipt Date: \_\_\_\_\_ Action by: \_\_\_\_\_ Action on: \_\_\_\_\_

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Attachment A

Cost-benefit Analysis for State Agencies

The Connecticut General Statutes Chapter 62 Section 4e-16(b) provides exact details that a state agency must prepare for the cost-benefit analysis portion of their privatization contract application to the State Contracting Standards Board. Supporting documents may be requested and must be furnished for an application to be considered complete and ready for review.

The following items, at a minimum, must be included:

- Direct and indirect costs of implementation<sup>1</sup>
- Savings of implementation
- Qualitative benefits
- Quantitative benefits
- Schedule to achieve savings<sup>2</sup>
- Supporting documents and records for cost factors
- 10% cost savings<sup>3</sup>
- Agency department head certification<sup>4</sup>

**AND, if the projected savings is not at least 10%**

- Significant public policy reason to pursue privatization

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<sup>1</sup> \* Section 4e-16(b) states "As used in this subsection, (1) "costs" means all reasonable, relevant and verifiable expenses, including salary, materials, supplies, services, equipment, capital depreciation, rent, maintenance, repairs, utilities, insurance, travel, overhead, interim and final payments and the normal cost of fringe benefits, as calculated by the Comptroller; (2) "normal cost of fringe benefits" means the amount of contributions required to fund the fringe benefits allocated to the current year of service; and (3) "savings" means the difference between the current annual direct and indirect costs of providing such service and the projected, annual direct and indirect costs of contracting to provide such services in any succeeding state fiscal year during the term of such proposed privatization contract."

<sup>2</sup> Schedule provided must "at a minimum, *shall* be adhered to in order to achieve any estimated savings" Section 4e-16(b)

<sup>3</sup> The cost savings must not diminish quality of service. Section 4e-16(c)2

<sup>4</sup> Certification is that, based on data and information, all projected costs, savings and benefits are valid and achievable. Section 4e-16(b)

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Attachment B

Business Case Requirements

The Connecticut General Statutes Chapter 62 Section 4e-16(d) provides exact details that a state agency must prepare for the business case portion of their privatization contract application to the State Contracting Standards Board. Supporting documents may be requested and must be furnished for an application to be considered complete and ready for review.

Required Items:

- Cost-benefit analysis
- Detailed description of the service or activity
- Description and current performance by the agency of the service/activity
- Goals to be achieved by the proposed privatization contract; rationale for goals
- Description of available options for achieving the goals<sup>1</sup>
- Description of current market for services/activities subject to business case
- Analysis of quality of services<sup>2</sup>
- Description of specific results-based performance standards that shall at minimum be met
- Projected time frame of key events, from start of procurement through expiration of contract
- Specific and feasible contingency plan<sup>3</sup>
- (if applicable)* Transition plan for changes in agency operations<sup>4</sup>
- (if applicable)* Contracts with a primary purpose of privatizing a core governmental function must provide information sufficient to rebut the presumption that such core governmental function should *not* be privatized<sup>5</sup>
- (if applicable)* A plan to remediate understaffing and allow services to be provided directly by the state, if understaffing is the impetus to privatize a core governmental function<sup>6</sup>

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<sup>1</sup> Must include advantages and disadvantages for each option, potential performance improvements and risks attendant to termination or rescission of such contract

<sup>2</sup> As gauged by standardized measures and key performance requirements including compensation, turnover, staffing ratios

<sup>3</sup> Must address contractor nonperformance, description of tasks involved in and costs required for implementation of such plan

<sup>4</sup> Includes addressing changes in the number of agency personnel, affected business processes, employee transition issues, reemployment and retraining assistance plan for employees not retained by state or employed by contractor and communications with affected stakeholders

<sup>5</sup> Such presumption shall not be construed to prohibit a state contracting agency from contracting for specialized technical expertise not available within such agency, provided such agency shall retain responsibility for such core governmental function. See Section 4e-16(d) for definitions of "core governmental functions"

<sup>6</sup> Core governmental functions means a function for which the primary purpose is (A) the inspection for adherence to health and safety standards because public health or safety may be jeopardized if such inspection is not done or is not done in a timely or proper manner, (B) the establishment of statutory, regulatory or contractual standards to which a regulated person, entity or state contractor shall be held, (C) the enforcement of statutory, regulatory or contractual requirements governing public health or safety, or (D) criminal or civil law enforcement.