



General Assembly

**Substitute Bill No. 5418**

January Session, 2019



**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE CONTRACTING STANDARDS BOARD.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-215 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) Each personal service agreement executed on or after [July 1,  
4 1994] October 1, 2019, and having a cost of more than twenty thousand  
5 dollars but not more than fifty thousand dollars and a term of not  
6 more than one year shall be based on competitive negotiation or  
7 competitive quotations, unless the state agency purchasing the  
8 personal services determines that a sole source purchase is required  
9 and applies to the [secretary] State Contracting Standards Board for a  
10 waiver from such requirement and the [secretary] board grants the  
11 waiver. [Not later than March 1, 1994, the secretary shall] The State  
12 Contracting Standards Board may adopt guidelines for determining  
13 the types of services that may qualify for such waivers. The qualifying  
14 services shall [include, but not] be limited to, (1) services for which the  
15 cost to the state of a competitive selection procedure would outweigh  
16 the benefits of such procedure, as documented by the state agency, (2)  
17 proprietary services, (3) services to be provided by a contractor  
18 mandated by the general statutes or a public or special act, and (4)  
19 emergency services, including services needed for the protection of life

20 or health. The State Contracting Standards Board shall post any  
21 requests for a waiver received under this section on the State  
22 Contracting Portal.

23 (b) The [secretary] board shall immediately notify the Auditors of  
24 Public Accounts of any application that the [secretary] board receives  
25 for approval of a sole source purchase of audit services and give the  
26 auditors the opportunity to review the application to advise the  
27 [secretary] board as to whether such services are necessary and, if so,  
28 whether such services could be provided by said auditors.

29 Sec. 2. Section 4-216 of the general statutes is repealed and the  
30 following is substituted in lieu thereof (*Effective October 1, 2019*):

31 (a) No state agency may execute a personal service agreement  
32 having a cost of more than fifty thousand dollars or a term of more  
33 than one year, without the approval of the secretary. A state agency  
34 may apply for an approval by submitting the following information to  
35 the secretary: (1) A description of the services to be purchased and the  
36 need for such services; (2) an estimate of the cost of the services and  
37 the term of the agreement; (3) whether the services are to be on-going;  
38 (4) whether the state agency has contracted out for such services  
39 during the preceding two years and, if so, the name of the contractor,  
40 term of the agreement with such contractor and the amount paid to the  
41 contractor; (5) whether any other state agency has the resources to  
42 provide the services; (6) whether the agency intends to purchase the  
43 services by competitive negotiation and, if not, why; and (7) whether it  
44 is possible to purchase the services on a cooperative basis with other  
45 state agencies. The secretary shall approve or disapprove an  
46 application within fifteen business days after receiving it and any  
47 necessary supporting information, provided if the secretary does not  
48 act within such fifteen-day period the application shall be deemed to  
49 have been approved. The secretary shall immediately notify (A) the  
50 Auditors of Public Accounts of any application which the secretary  
51 receives for approval of a personal services agreement for audit  
52 services and give said auditors an opportunity to review the

53 application during such fifteen-day period and advise the secretary as  
54 to whether such audit services are necessary and, if so, could be  
55 provided by said auditors, and (B) the State Contracting Standards  
56 Board of any application which the secretary receives for approval of a  
57 personal services agreement where the agency does not intend to  
58 purchase the services by competitive negotiation.

59 (b) Each personal service agreement having a cost of more than fifty  
60 thousand dollars or a term of more than one year shall be based on  
61 competitive negotiation or competitive quotations, unless the state  
62 agency purchasing the personal services applies to the [secretary] State  
63 Contracting Standards Board for a waiver from such requirement and  
64 the [secretary] board grants the waiver in accordance with [the] any  
65 guidelines adopted under section 4-215, as amended by this act.

66 (c) The secretary may establish an incentive program for nonprofit  
67 providers of human services whose contracts with the state do not  
68 exceed one million dollars and who provide direct services to not more  
69 than one hundred fifty persons enrolled in state-funded assistance  
70 programs in specific geographical regions of the state. The incentive  
71 program may (1) allow providers who otherwise meet contractual  
72 requirements to retain a percentage of any savings realized by the  
73 providers from the contracted cost for services, (2) require that at least  
74 fifty per cent of savings retained by the providers be used to expand  
75 such services, and (3) provide that future contracted amounts from the  
76 state for the same types of services are not reduced solely to reflect  
77 savings achieved in previous contracts by such providers. For  
78 purposes of this subsection, "state-funded assistance programs"  
79 includes, but is not limited to, services provided to persons with  
80 intellectual, physical or mental disabilities or autism spectrum  
81 disorder.

82 Sec. 3. Subsection (a) of section 4e-36 of the general statutes is  
83 repealed and the following is substituted in lieu thereof (*Effective*  
84 *October 1, 2019*):

85 (a) Any bidder or proposer on a state contract may contest the  
86 solicitation or award of a contract, including a contract awarded after  
87 the granting of any waiver from competitive bidding under section 4-  
88 215 or 4-216, as amended by this act, to a subcommittee of the State  
89 Contracting Standards Board which shall be appointed by the  
90 chairperson of the board and consist of three members, at least one of  
91 whom shall be a legislative appointee. Such contest shall be submitted,  
92 in writing, not later than fourteen days after such bidder or proposer  
93 knew or should have known of the facts giving rise to such contest and  
94 shall be limited to the procedural elements of the solicitation or award  
95 process, or claims of an unauthorized or unwarranted, noncompetitive  
96 selection process.

97 Sec. 4. Subdivision (28) of section 4e-1 of the general statutes is  
98 repealed and the following is substituted in lieu thereof (*Effective*  
99 *October 1, 2019*):

100 (28) "State contracting agency" means any executive branch agency,  
101 board, commission, department, office, institution or council, [ "State  
102 contracting agency" does not include the judicial branch, the legislative  
103 branch,] including the offices of the Secretary of the State, the State  
104 Comptroller, the Attorney General, the State Treasurer [, with respect  
105 to their constitutional functions, any state agency with respect to  
106 contracts specific to the constitutional and statutory functions of the  
107 office of the State Treasurer. For the purposes of section 4e-16, "state  
108 contracting agency" includes] and any constituent unit of the state  
109 system of higher education, [and for] but excluding the judicial and  
110 legislative branches. For the purposes of section 4e-19, "state  
111 contracting agency" includes the State Education Resource Center,  
112 established under section 10-4q;

113 Sec. 5. Section 4e-5 of the general statutes is repealed and the  
114 following is substituted in lieu thereof (*Effective October 1, 2019*):

115 (a) (1) The head of each state contracting agency shall appoint an  
116 agency procurement officer. Such officer shall serve as the liaison

117 between the agency and the Chief Procurement Officer on all matters  
118 relating to the agency's procurement activity, including, but not  
119 limited to, implementation and compliance with the provisions of  
120 statutes and regulations concerning procurement and any policies or  
121 regulations adopted by the board, coordination of the training and  
122 education of agency procurement employees and any person serving  
123 on the Contracting Standards Advisory Council;

124 (2) The agency procurement officer shall be responsible for assuring  
125 that contractors are properly screened prior to the award of a contract,  
126 evaluating contractor performance during and at the conclusion of a  
127 contract, submitting written evaluations to a central data repository to  
128 be designated by the board and creating a project management plan  
129 for the agency with annual reports to the board pertaining to  
130 procurement projects within the agency.

131 (b) The State Contracting Standards Board, with the advice and  
132 assistance of the Commissioner of Administrative Services, shall  
133 develop a standardized state procurement and project management  
134 education and training certification program. Such education and  
135 training certification program shall develop education, training and  
136 professional development opportunities for employees of state  
137 contracting agencies charged with procurement responsibilities. The  
138 program shall educate such employees in general business acumen  
139 and on proper purchasing procedures as established in statutes and  
140 regulations concerning procurement with an emphasis on ethics,  
141 fairness, consistency and project management. [Participation in the  
142 program] Certification shall be required of any supervisory and  
143 nonsupervisory state employees in state contracting agencies with  
144 responsibility for buying, purchasing, renting, leasing or otherwise  
145 acquiring any supplies, service or construction, including the  
146 preparation of the description of requirements, selection and  
147 solicitation of sources, preparation and award of contracts and all  
148 phases of contract administration.

149 (c) The program shall include, but shall not be limited to (1) training

150 and education concerning federal, state and municipal procurement  
151 processes, including the statutes and regulations concerning  
152 procurement; (2) training and education courses developed in  
153 cooperation with the Office of State Ethics, the Freedom of Information  
154 Commission, the State Elections Enforcement Commission, the  
155 Commission on Human Rights and Opportunities, the office of the  
156 Attorney General and any other state agency the board determines is  
157 necessary in carrying out statutes and regulations concerning  
158 procurement; (3) providing technical assistance to state contracting  
159 agencies and municipalities for implementing statutes and regulations  
160 concerning procurement, regulations, policies and standards  
161 developed by the board; (4) training to current and prospective  
162 contractors and vendors and others seeking to do business with the  
163 state; and (5) training and education of state employees in the area of  
164 best procurement practices in state purchasing with the goal of  
165 achieving the level of acumen necessary to achieve the objectives of  
166 statutes and regulations concerning procurement.

167 (d) Any employee who completes the program established under  
168 subsection (b) of this section shall be [issued documentation] granted  
169 certification by the board acknowledging such employee's  
170 participation in the program. The board shall submit an annual report  
171 to the Governor and the General Assembly on the status of such  
172 program in accordance with section 11-4a.

173 (e) The board shall adopt regulations, in accordance with the  
174 provisions of chapter 54, to develop and implement the [training and]  
175 education and training certification program established under  
176 subsection (b) of this section.

177 Sec. 6. Section 4e-6 of the general statutes is repealed and the  
178 following is substituted in lieu thereof (*Effective October 1, 2019*):

179 (a) The board shall appoint a Chief Procurement Auditor for a term  
180 not to exceed six years, unless reappointed pursuant to the provisions  
181 of this subsection. The Chief Procurement Auditor shall report to the

182 board and annually be evaluated by, and serve at the pleasure of, the  
183 board. For administrative purposes only, the Chief Procurement  
184 Auditor shall be supervised by the executive director.

185 (b) The Chief Procurement Auditor shall: (1) In consultation with  
186 the Auditors of Public Accounts, establish procedures for monitoring  
187 the financial and cost provisions of contracting regulations; (2)  
188 establish an anonymous hotline to receive complaints regarding  
189 procurement and investigate such complaints, as appropriate; and (3)  
190 measure and report annually on procurement process improvement.

191 [(a)] (c) The [board] Chief Procurement Auditor shall conduct audits  
192 of state contracting agencies, triennially, to ensure compliance with  
193 statutes and regulations concerning procurement. In conducting each  
194 such audit, the [board] Chief Procurement Auditor shall have access to  
195 all contracting and procurement records, may interview any and all  
196 personnel responsible for contracting, contract negotiations or  
197 procurement and may enter into an agreement with the Auditors of  
198 Public Accounts to effectuate such audit.

199 [(b)] (d) Upon completion of any such audit, the [board] Chief  
200 Procurement Auditor shall prepare and issue a compliance report for  
201 the state contracting agency. Such report shall identify any process or  
202 procedure that is inconsistent with statutes and regulations concerning  
203 procurement and indicate those corrective measures the [board] Chief  
204 Procurement Auditor deems necessary to comply with statutes and  
205 regulations concerning procurement requirements. Such report shall  
206 be issued and delivered not later than thirty days after completion of  
207 such audit and shall be a public record.

208 Sec. 7. Subsection (a) of section 4e-7 of the general statutes is  
209 repealed and the following is substituted in lieu thereof (*Effective*  
210 *October 1, 2019*):

211 (a) For cause, the State Contracting Standards Board may review,  
212 terminate or recommend to a state contracting agency the termination

213 of any contract or procurement agreement undertaken by any state  
 214 contracting agency after providing fifteen days' notice to the state  
 215 contracting agency and the applicable contractor, and consulting with  
 216 the Attorney General. Such termination of a contract or procurement  
 217 agreement by the board may occur only after (1) the board has  
 218 consulted with the contracting agency to determine the impact of an  
 219 immediate termination of the contract, (2) a determination has been  
 220 made jointly by the board and the contracting agency that an  
 221 immediate termination of the contract will not create imminent peril to  
 222 the public health, safety or welfare, (3) a vote of two-thirds of the  
 223 members of the board present and voting for that purpose, and (4) the  
 224 board has provided the state contracting agency and the contractor  
 225 with opportunity for a hearing conducted pursuant to the provisions  
 226 of chapter 54. Such action shall be accompanied by notice to the state  
 227 contracting agency and any other affected party. For the purpose of  
 228 this section, "for cause" means: (A) A violation of section 1-84 or 1-86e,  
 229 as determined by the Citizen's Ethics Advisory Board; (B) wanton or  
 230 reckless disregard of any state contracting and procurement process by  
 231 any person substantially involved in such contract or state contracting  
 232 agency; or (C) notification from the Attorney General to the state  
 233 contracting agency that an investigation pursuant to section 4-61dd has  
 234 concluded that the process by which such contract was awarded was  
 235 compromised by fraud, collusion or any other criminal violation.  
 236 Nothing in this section shall be construed to limit the authority of the  
 237 board or Chief Procurement Auditor, as described in section 4e-6, as  
 238 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	4-215
Sec. 2	<i>October 1, 2019</i>	4-216
Sec. 3	<i>October 1, 2019</i>	4e-36(a)
Sec. 4	<i>October 1, 2019</i>	4e-1(28)
Sec. 5	<i>October 1, 2019</i>	4e-5
Sec. 6	<i>October 1, 2019</i>	4e-6



Sec. 7	October 1, 2019	4e-7(a)
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**Statement of Legislative Commissioners:**

In Section 1, "July 1, 1994" was changed to "October 1, 2019" for consistency.

**GAE**      *Joint Favorable Subst.*