



General Assembly

January Session, 2023

Substitute Bill No. 6867



AN ACT CONCERNING COMPETITIVE NEGOTIATION FOR CERTAIN STATE CONTRACTS AND OTHER PROCUREMENT PRACTICES..

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

1 Section 1. Section 4-212 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 As used in [sections 4-212] this section and sections 4-213 to 4-219,
4 inclusive, as amended by this act:

5 (1) "Competitive negotiation" means (A) a procedure for contracting
6 for services in which [(A)] proposals are solicited from qualified
7 persons, firms or corporations by a request for proposals, regardless of
8 the number of responses, and [(B)] changes may be negotiated in
9 proposals and prices after being submitted, or (B) any other open and
10 fair process in which all qualified persons, firms or corporations have
11 an equal opportunity to be selected to provide services.

12 (2) "Personal service contractor" means any person, firm or
13 corporation not employed by the state, who is hired by a state agency
14 for a fee to provide services to the agency. The term "personal service
15 contractor" [shall] does not include (A) a person, firm or corporation
16 providing "contractual services", as defined in section 4a-50, as
17 amended by this act, to the state, (B) a "consultant", as defined in
18 section 4b-55, (C) a "consultant", as defined in section 13b-20b, (D) an
19 agency of the federal government, of the state or of a political

20 subdivision of the state, [or] (E) a person, firm or corporation
21 providing consultant services for information and telecommunications
22 systems authorized under subdivision (3) of subsection (b) of section
23 4d-2, or (F) a person, firm or corporation providing transportation
24 services under a contract entered into under section 13b-34.

25 (3) "Personal service agreement" means a written agreement
26 defining the services or end product to be delivered by a personal
27 service contractor to a state agency, excluding any agreement with a
28 personal service contractor that the state accounting manual does not
29 require to be submitted to the Comptroller.

30 (4) "Secretary" means the Secretary of the Office of Policy and
31 Management.

32 (5) "State agency" means a department, board, council, commission,
33 institution or other executive branch agency.

34 Sec. 2. Section 4-214 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective July 1, 2023*):

36 Each personal service agreement executed on or after July 1, [1994]
37 2023, and having a cost of not more than [twenty] fifty thousand
38 dollars and a term of not more than one year shall be based, when
39 possible, on competitive negotiation or competitive quotations.

40 Sec. 3. Section 4-215 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective July 1, 2023*):

42 (a) Each personal service agreement executed on or after July 1,
43 [1994] 2023, and having a cost of more than [twenty thousand dollars
44 but not more than] fifty thousand dollars [and a term of not more than
45 one year] shall be based on competitive negotiation or competitive
46 quotations, unless the state agency purchasing the personal services
47 determines that a sole source purchase is required and applies to the
48 secretary for a waiver from such requirement and the secretary grants
49 the waiver. Not later than March 1, 1994, the secretary shall adopt

50 guidelines for determining the types of services that may qualify for
51 such waivers. The qualifying services shall include, but not be limited
52 to, (1) services for which the cost to the state of a competitive selection
53 procedure would outweigh the benefits of such procedure, as
54 documented by the state agency, (2) proprietary services, (3) services
55 to be provided by a contractor mandated by the general statutes or a
56 public or special act, and (4) emergency services, including services
57 needed for the protection of life or health. The secretary shall post any
58 approvals of requests for a waiver received under this section on the
59 State Contracting Portal. Not later than January 15, 2020, and annually
60 thereafter, the secretary shall submit a report, in accordance with the
61 provisions of section 11-4a, to the joint standing committees of the
62 General Assembly having cognizance of matters relating to
63 appropriations and the budgets of state agencies and government
64 administration and the State Contracting Standards Board listing any
65 such waiver requests received during the prior year and the
66 justification for the grant or denial of such request.

67 (b) [The] Not less than seven days prior to submitting any
68 application to the secretary for a sole source purchase of audit services,
69 the agency shall [immediately] notify the Auditors of Public Accounts
70 [of any application that the secretary receives for approval of a sole
71 source purchase of audit services] and give the auditors the
72 opportunity to review the application to advise the [secretary as to]
73 agency during such seven-day period whether such services are
74 necessary and, if so, whether such services could be provided by said
75 auditors.

76 Sec. 4. Section 4-216 of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective July 1, 2023*):

78 (a) No state agency may execute a personal service agreement
79 having a cost of more than fifty thousand dollars [or a term of more
80 than one year,] without the approval of the secretary. A state agency
81 may apply for an approval by submitting the following information to
82 the secretary: (1) A description of the services to be purchased and the

83 need for such services; (2) an estimate of the cost of the services and
84 the term of the agreement; (3) whether the services are to be on-going;
85 (4) whether the state agency has contracted out for such services
86 during the preceding two years and, if so, the name of the contractor,
87 term of the agreement with such contractor and the amount paid to the
88 contractor; (5) whether any other state agency has the resources to
89 provide the services; (6) whether the agency intends to purchase the
90 services by competitive negotiation and, if not, why; and (7) whether it
91 is possible to purchase the services on a cooperative basis with other
92 state agencies. The secretary shall approve or disapprove an
93 application [within] not later than fifteen business days after receiving
94 it and any necessary supporting information. [provided if the
95 secretary does not act within such fifteen-day period the application
96 shall be deemed to have been approved. The secretary] In the case of a
97 proposed personal services agreement for audit services, not less than
98 seven days prior to submitting any such application to the secretary,
99 the agency shall [immediately] notify the Auditors of Public Accounts
100 [of any application which the secretary receives for approval] of a
101 proposed personal services agreement for audit services and give said
102 auditors an opportunity to review the application [during such fifteen-
103 day period] and advise the [secretary as to] agency during such seven-
104 day period whether such audit services are necessary and, if so, could
105 be provided by said auditors.

106 (b) Each personal service agreement having a cost of more than fifty
107 thousand dollars [or a term of more than one year] shall be based on
108 competitive negotiation or competitive quotations, unless the state
109 agency purchasing the personal services applies to the secretary for a
110 waiver from such requirement and the secretary grants the waiver in
111 accordance with the guidelines adopted under section 4-215, as
112 amended by this act.

113 (c) The secretary shall establish an incentive program for nonprofit
114 providers of human services that shall (1) allow providers who
115 otherwise meet contractual requirements to retain any savings realized

116 by the providers from the contracted cost for services, and (2) provide
117 that future contracted amounts from the state for the same types of
118 services are not reduced solely to reflect savings achieved in previous
119 contracts by such providers. For purposes of this subsection,
120 "nonprofit providers of human services" includes, but is not limited to,
121 nonprofit providers of services to persons with intellectual, physical or
122 mental disabilities or autism spectrum disorder. Any nonprofit
123 provider of human services allowed to retain savings under the
124 incentive program shall submit a report to the secretary on how excess
125 funds were reinvested to strengthen quality, invest in deferred
126 maintenance and make asset improvements.

127 Sec. 5. Section 4-217 of the general statutes is repealed and the
128 following is substituted in lieu thereof (*Effective July 1, 2023*):

129 (a) [Not later than March 1, 1994, the] The Secretary of the Office of
130 Policy and Management shall establish standards for state agencies to
131 follow in entering into personal service agreements. The standards
132 shall include, but not be limited to, provisions for: (1) Evaluating the
133 need to use a personal service agreement, (2) developing a request for
134 proposals or any other form of competitive negotiation, (3) advertising
135 for personal service contractors, (4) evaluating submitted proposals, (5)
136 selecting a personal service contractor, including compliance with
137 section 4a-60g, (6) systematically monitoring and evaluating personal
138 service contractor performance, (7) documenting the entire process for
139 selecting and managing personal service contractors and (8) carrying
140 out any other aspect of such process.

141 (b) [Not later than May 1, 1994, each] Each state agency shall: (1)
142 Establish written procedures for implementing the standards
143 established by the secretary under subsection (a) of this section, and (2)
144 submit such procedures to the secretary for his approval. If the
145 secretary disapproves an agency's procedures he shall return the
146 procedures to the agency with recommendations for revisions. [On
147 and after July 1, 1994, no] No state agency may execute a personal
148 service agreement unless the secretary has approved procedures

149 established by the agency under this section.

150 (c) A request for proposals issued under section 4-214, as amended
151 by this act, 4-215, as amended by this act, or 4-216, as amended by this
152 act, shall include, but not be limited to, an outline of the work to be
153 performed, the required minimum qualifications for the personal
154 service contractor, criteria for review of proposals by the state agency,
155 the format for proposals and the deadline for submitting proposals.
156 Each state agency which prepares a request for proposals shall
157 establish a screening committee to evaluate the proposals submitted in
158 response to the request for proposals. The screening committee shall
159 rank all proposals in accordance with the criteria set forth in the
160 request for proposals and shall submit the names of the top three
161 proposers to the executive head of the agency, who shall select the
162 personal service contractor from among such names.

163 Sec. 6. Section 4-219 of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective July 1, 2023*):

165 No state agency may, without the approval of the secretary, execute
166 (1) an amendment to a personal service agreement, which agreement
167 has an original cost of more than fifty thousand dollars, or (2) an
168 amendment to any other personal service agreement, which
169 amendment (A) has a cost of one hundred per cent or more of the cost
170 of the original agreement, (B) increases the cost of the agreement to
171 more than fifty thousand dollars, [(C) extends the terms of the
172 agreement beyond a one-year period] or [(D)] (C) is the second or
173 subsequent amendment to the agreement. The secretary shall approve
174 or disapprove a proposed amendment [within] not later than fifteen
175 business days after receiving it and any necessary supporting
176 information, provided if the secretary does not act within such fifteen-
177 day period the application shall be deemed to have been approved.

178 Sec. 7. Section 4a-50 of the general statutes is repealed and the
179 following is substituted in lieu thereof (*Effective July 1, 2023*):

180 When used in this chapter, unless the context indicates a different
181 meaning:

182 (1) "State agency" includes any officer, department, board, council,
183 commission, institution or other agency of the Executive Department
184 of the state government;

185 (2) "Supplies", "materials" and "equipment" mean any [and all]
186 articles of personal property furnished to or used by any state agency,
187 including all printing, binding, publication of laws, stationery, forms,
188 and reports;

189 (3) "Contractual services" means any [and all] laundry and cleaning
190 service, pest control service, janitorial service, security service, the
191 rental and repair, or maintenance, of equipment, machinery and other
192 state-owned personal property, advertising [and photostating,
193 mimeographing,] and other service arrangements where the services
194 are provided by persons other than state employees;

195 (4) "Competitive bidding" means the submission of prices by
196 persons, firms or corporations competing for a contract to provide
197 supplies, materials, equipment or contractual services, under a
198 procedure in which the contracting authority does not negotiate prices;

199 (5) "Competitive negotiation" means (A) a procedure for contracting
200 for supplies, materials, equipment or contractual services, in which
201 [(A)] proposals are solicited from qualified suppliers by a request for
202 proposals, regardless of the number of responses, and [(B)] changes
203 may be negotiated in proposals and prices after being submitted, or (B)
204 any other open and fair process in which all qualified suppliers have
205 an equal opportunity to be selected to provide supplies, materials,
206 equipment or contractual services;

207 (6) "Bidder" means a person, firm or corporation submitting a
208 competitive bid in response to a solicitation or any other form of
209 competitive negotiation; and

210 (7) "Proposer" means a person, firm or corporation submitting a
211 proposal in response to a request for proposals or any other form of
212 competitive negotiation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	4-212
Sec. 2	<i>July 1, 2023</i>	4-214
Sec. 3	<i>July 1, 2023</i>	4-215
Sec. 4	<i>July 1, 2023</i>	4-216
Sec. 5	<i>July 1, 2023</i>	4-217
Sec. 6	<i>July 1, 2023</i>	4-219
Sec. 7	<i>July 1, 2023</i>	4a-50

Statement of Legislative Commissioners:

In Section 5(b), the dates were bracketed for consistency.

GAE *Joint Favorable Subst. -LCO*