



General Assembly

February Session, 2020

Raised Bill No. 481

LCO No. 2780



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

**AN ACT CONCERNING PREQUALIFICATION AND
DISQUALIFICATION OF STATE CONTRACTORS AND SUBSTANTIAL
SUBCONTRACTORS FOR STATE CONTRACTS.**

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

1 Section 1. Subsections (i) to (k), inclusive, of section 4a-100 of the 2020
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2020, and applicable to*
4 *certificates issued on or after said date*):

5 (i) The commissioner may not issue or renew a prequalification
6 certificate to any contractor or substantial subcontractor (1) who is
7 disqualified pursuant to section 31-57c or 31-57d [] or who has been
8 disqualified pursuant to said sections within the past three years, (2)
9 who has a principal or key personnel who, within the past five years,
10 has a conviction or has entered a plea of guilty or nolo contendere for or
11 has admitted to commission of an act or omission that reasonably could
12 have resulted in disqualification pursuant to any provision of
13 subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57c or
14 subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57d, as

15 determined by the commissioner, or (3) who has received an order
16 imposing a civil penalty under subsection (j) of section 4a-60g more than
17 once during the past three years.

18 (j) The commissioner may revoke a contractor's or substantial
19 subcontractor's prequalification or reduce the contractor's or substantial
20 subcontractor's prequalification classification or aggregate work
21 capacity ratings, after an opportunity for a hearing, if the commissioner
22 receives additional information that supports such revocation or
23 reduction. During the course of such hearing process, the commissioner
24 may suspend a contractor's or substantial subcontractor's
25 prequalification certificate if the commissioner determines that there is
26 probable cause to believe that such contractor or substantial
27 subcontractor engaged in conduct that significantly undermines the
28 skill, ability or integrity of such contractor or substantial subcontractor.
29 Any such suspension shall not exceed a period of three months and shall
30 be accompanied by a written decision of the commissioner that sets
31 forth the reasons for and duration of such suspension. The
32 commissioner shall send notification of any such suspension to such
33 contractor or substantial subcontractor by certified mail, return receipt
34 requested. Such contractor or substantial subcontractor may file a
35 response, in writing, not later than thirty days after receipt of such
36 notice. The commissioner shall review any such response submitted by
37 a contractor or substantial subcontractor within such thirty-day period.

38 (k) (1) Any substantial evidence of fraud in obtaining or maintaining
39 prequalification or any materially false statement in the application,
40 update statement or update bid statement may, in the discretion of the
41 awarding authority, result in termination of any contract awarded the
42 contractor by the awarding authority. The awarding authority shall
43 provide written notice to the commissioner of such false statement not
44 later than thirty days after discovering such false statement. The
45 commissioner shall provide written notice of such false statement to the
46 Commissioner of Consumer Protection and the president of The
47 University of Connecticut not later than thirty days after discovering
48 such false statement or receiving such notice.

49 (2) The commissioner shall deny or revoke the prequalification of any
50 contractor or substantial subcontractor if the commissioner finds that
51 the contractor or substantial subcontractor, or a principal or key
52 personnel of such contractor or substantial subcontractor, within the
53 past five years (A) has included any materially false statement in a
54 prequalification application, update statement or update bid statement,
55 (B) has been convicted of, entered a plea of guilty or nolo contendere for,
56 or admitted to, a crime related to the procurement or performance of
57 any public or private construction contract, or (C) has otherwise
58 engaged in fraud in obtaining or maintaining prequalification. Any
59 revocation made pursuant to this subsection shall be made only after an
60 opportunity for a hearing. Any contractor or substantial subcontractor
61 whose prequalification has been revoked pursuant to this subsection
62 shall be disqualified for a period of [two] three years after which the
63 contractor or substantial subcontractor may reapply for
64 prequalification, except that a contractor or substantial subcontractor
65 whose prequalification has been revoked on the basis of conviction of a
66 crime or engaging in fraud shall be disqualified for a period of five years
67 after which the contractor or substantial subcontractor may reapply for
68 prequalification. The commissioner shall not prequalify a contractor or
69 substantial subcontractor whose prequalification has been revoked
70 pursuant to this subdivision until the expiration of said [two-year]
71 three-year, five-year, or other applicable disqualification period and the
72 commissioner is satisfied that the matters that gave rise to the revocation
73 have been eliminated or remedied.

74 Sec. 2. Subsection (c) of section 4b-91 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective October*
76 *1, 2020*):

77 (c) No person may bid on a contract or perform work pursuant to a
78 contract that is subject to the provisions of subsection (a) of this section
79 unless the person is prequalified in accordance with section 4a-100, as
80 amended by this act, and if using substantial contractors to perform the
81 contract, certifies that such person will use substantial subcontractors
82 who are prequalified pursuant to section 4a-100, as amended by this act.

83 Sec. 3. Section 4b-92 of the general statutes is repealed and the
84 following is substituted in lieu thereof (*Effective October 1, 2020*):

85 As used in this chapter and except as otherwise provided, "lowest
86 responsible and qualified bidder" means the bidder (1) who is
87 prequalified pursuant to section 4a-100, [and] as amended by this act,
88 (2) whose bid is the lowest of those bidders possessing the skill, ability
89 and integrity necessary to faithful performance of the work based on
90 objective criteria considering past performance and information
91 contained in the update bid statement submitted pursuant to section 4b-
92 91, and (3) if using substantial contractors to perform the contract, will
93 use substantial subcontractors who are prequalified pursuant to section
94 4a-100, as amended by this act. Essential information in regard to such
95 qualifications shall be submitted with the bid in such form as the
96 awarding authority may require by specification in the bid documents
97 and on the bid form. Every general bid shall be accompanied by a bid
98 bond or a certified check in an amount which shall be ten per cent of the
99 bid, provided no such bid bond or certified check shall be required in
100 relation to any general bid in which the total estimated cost of labor and
101 materials under the contract with respect to which such general bid is
102 submitted is less than fifty thousand dollars. Failure to execute a
103 contract awarded as specified and bid shall result in the forfeiture of
104 such bid bond or certified check. In considering past performance the
105 awarding authority shall evaluate the skill, ability and integrity of
106 bidders in terms of the bidders' fulfillment of contract obligations and
107 of the bidders' experience or lack of experience with projects of the
108 nature and scope of the project for which the bids are submitted.

109 Sec. 4. Subsection (b) of section 31-53 of the 2020 supplement to the
110 general statutes is repealed and the following is substituted in lieu
111 thereof (*Effective October 1, 2020*):

112 (b) Any contractor or subcontractor who knowingly or wilfully
113 employs any mechanic, laborer or worker in the construction,
114 remodeling, refinishing, refurbishing, rehabilitation, alteration or repair
115 of any public works project for or on behalf of the state or any of its

116 agents, or any political subdivision of the state or any of its agents, at a
117 rate of wage on an hourly basis that is less than the rate customary or
118 prevailing for the same work in the same trade or occupation in the town
119 in which such public works project is being constructed, remodeled,
120 refinished, refurbished, rehabilitated, altered or repaired, or who fails to
121 pay the amount of payment or contributions paid or payable on behalf
122 of each such person to any employee welfare fund, or in lieu thereof to
123 the person, as provided by subsection (a) of this section, shall be fined
124 not less than two thousand five hundred dollars but not more than five
125 thousand dollars for each offense and (1) for the first violation, shall be
126 disqualified from bidding on contracts with the state or any political
127 subdivision until the contractor or subcontractor has made full
128 restitution of the back wages owed to such persons and for an additional
129 six months thereafter, and (2) for subsequent violations, shall be
130 disqualified from bidding on contracts with the state or any political
131 subdivision until the contractor or subcontractor has made full
132 restitution of the back wages owed to such persons and for not less than
133 an additional [two] three years thereafter. In addition, if it is found by
134 the contracting officer representing the state or political subdivision of
135 the state that any mechanic, laborer or worker employed by the
136 contractor or any subcontractor directly on the site for the work covered
137 by the contract has been or is being paid a rate of wages less than the
138 rate of wages required by the contract to be paid as required by this
139 section, the state or contracting political subdivision of the state may (A)
140 by written or electronic notice to the contractor, terminate such
141 contractor's right to proceed with the work or such part of the work as
142 to which there has been a failure to pay said required wages and to
143 prosecute the work to completion by contract or otherwise, and the
144 contractor and the contractor's sureties shall be liable to the state or the
145 contracting political subdivision for any excess costs occasioned the
146 state or the contracting political subdivision thereby, or (B) withhold
147 payment of money to the contractor or subcontractor. The contracting
148 department of the state or the political subdivision of the state shall, not
149 later than two days after taking such action, notify the Labor
150 Commissioner, in writing or electronically, of the name of the contractor

151 or subcontractor, the project involved, the location of the work, the
152 violations involved, the date the contract was terminated, and steps
153 taken to collect the required wages.

154 Sec. 5. Subsection (c) of section 31-53c of the general statutes is
155 repealed and the following is substituted in lieu thereof (*Effective October*
156 *1, 2020*):

157 (c) Any contractor or subcontractor who knowingly or wilfully
158 employs any mechanic, laborer or worker in any project receiving
159 financial assistance from the Department of Economic and Community
160 Development for such project, at a rate of wage on an hourly basis that
161 is less than the rate customary or prevailing for the same work in the
162 same trade or occupation in the town in which such project is located,
163 or who fails to pay the amount of payment or contributions paid or
164 payable on behalf of each such person to any employee welfare fund, as
165 defined in subsection (i) of section 31-53, or in lieu thereof to the person,
166 as provided by subsection (b) of this section, shall be fined not less than
167 two thousand five hundred dollars but not more than five thousand
168 dollars for each offense and (1) for the first violation, shall be
169 disqualified from bidding on contracts for projects for which the
170 Department of Economic and Community Development provides
171 financial assistance until the contractor or subcontractor has made full
172 restitution of the back wages owed to such persons and for an additional
173 six months thereafter, and (2) for subsequent violations, shall be
174 disqualified from bidding on contracts for projects for which the
175 Department of Economic and Community Development provides
176 financial assistance until the contractor or subcontractor has made full
177 restitution of the back wages owed to such persons and for not less than
178 an additional [two] three years thereafter. In addition, if it is found by
179 the contracting officer representing the business organization that any
180 mechanic, laborer or worker employed by the contractor or any
181 subcontractor directly on the site for the work covered by the contract
182 has been or is being paid a rate of wages less than the rate of wages
183 required by the contract to be paid as required by this section, the
184 business organization may (A) by written or electronic notice to the

185 contractor, terminate such contractor's right to proceed with the work
186 or such part of the work as to which there has been a failure to pay said
187 required wages and to prosecute the work to completion by contract or
188 otherwise, and the contractor and the contractor's sureties shall be liable
189 to the business organization for any excess costs occasioned the business
190 organization thereby, or (B) withhold payment of money to the
191 contractor or subcontractor. The contracting business organization shall,
192 not later than two days after taking such action, notify the Labor
193 Commissioner, in writing or electronically, of the name of the contractor
194 or subcontractor, the project involved, the location of the work, the
195 violations involved, the date the contract was terminated and steps
196 taken to collect the required wages.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020, and applicable to certificates issued on or after said date</i>	4a-100(i) to (k)
Sec. 2	<i>October 1, 2020</i>	4b-91(c)
Sec. 3	<i>October 1, 2020</i>	4b-92
Sec. 4	<i>October 1, 2020</i>	31-53(b)
Sec. 5	<i>October 1, 2020</i>	31-53c(c)

Statement of Purpose:

To prohibit any contractor or subcontractor found to have violated certain statutory provisions from receiving prequalification for a period of three years, to disqualify certain contractors that have violated wage provisions for three years and to require the use of prequalified substantial subcontractors for certain contracts.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]