



General Assembly

Substitute Bill No. 7385

January Session, 2019



AN ACT CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND CHANGES TO AFFIRMATION, AFFIDAVIT AND CERTIFICATION REQUIREMENTS FOR LARGE STATE CONTRACTS.

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

1 Section 1. Section 1-101qq of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) Except as provided in section 10a-151h, a state agency or
4 institution or quasi-public agency that is seeking a contractor for a
5 large state construction or procurement contract shall provide the
6 summary of state ethics laws developed by the Office of State Ethics
7 pursuant to section 1-81b to any person seeking a large state
8 construction or procurement contract. [Such person shall affirm to the
9 agency or institution, in writing or electronically, (1) receipt of such
10 summary, and (2) that key employees of such person have read and
11 understand the summary and agree to comply with the provisions of
12 state ethics law. After the initial submission of such affirmation, such
13 person shall not be required to resubmit such affirmation unless there
14 is a change in the information contained in the affirmation. If there is
15 any change in the information contained in the most recently filed
16 affirmation, such person shall submit an updated affirmation either
17 (A) not later than thirty days after the effective date of any such
18 change, or (B) upon the submittal of any new bid or proposal,

19 whichever is earlier.] No state agency or institution or quasi-public
20 agency shall [accept a bid or proposal for] enter into a large state
21 construction or procurement contract [without such affirmation]
22 unless such contract contains a representation that the chief executive
23 officer or authorized signatory of the contract and all key employees of
24 such officer or signatory have read and understood the summary and
25 agree to comply with the provisions of state ethics law.

26 (b) Except as provided in section 10a-151h, prior to entering into a
27 contract with any subcontractors or consultants, each large state
28 construction or procurement contractor shall [(1)] provide the
29 summary of state ethics laws described in subsection (a) of this section
30 to all subcontractors and consultants, [, and (2) obtain an affirmation
31 from each subcontractor and consultant that such subcontractor and
32 consultant has received such summary and key employees of such
33 subcontractor and consultant have read and understand the summary
34 and agree to comply with its provisions. The contractor shall provide
35 such affirmations to the state agency, institution or quasi-public
36 agency not later than fifteen days after the request of such agency,
37 institution or quasi-public agency for such affirmation.] Each contract
38 with a subcontractor or consultant shall include a representation that
39 each subcontractor or consultant and the key employees of such
40 subcontractor or consultant have read and understood the summary
41 and agree to comply with the provisions of state ethics law. Failure to
42 [submit such affirmations in a timely manner] include such
43 representations in such contracts with subcontractors or consultants
44 shall be cause for termination of the large state construction or
45 procurement contract.

46 (c) Each contract with a contractor, subcontractor or consultant
47 described in subsection (a) or (b) of this section shall incorporate such
48 summary by reference as a part of the contract terms.

49 Sec. 2. Section 4-252 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective July 1, 2019*):

51 (a) Except as provided in section 10a-151f, on and after July 1, [2006]
52 2019, no state agency or quasi-public agency shall execute a large state
53 contract unless [the state agency or quasi-public agency obtains the
54 written or electronic certification] such contract contains the
55 representations described in this section. [Each such certification shall
56 be sworn as true to the best knowledge and belief of the person signing
57 the certification, subject to the penalties of false statement. If there is
58 any change in the information contained in the most recently filed
59 certification, such person shall submit an updated certification either
60 (1) not later than thirty days after the effective date of any such change,
61 or (2) upon the submittal of any new bid or proposal for a large state
62 contract, whichever is earlier. Such person shall also submit to the state
63 agency or quasi-public agency an accurate, updated certification not
64 later than fourteen days after the twelve-month anniversary of the
65 most recently filed certification or updated certification.]

66 (b) The official or employee of such state agency or quasi-public
67 agency who is authorized to execute state contracts shall [certify]
68 represent that the selection of the most qualified or highest ranked
69 person, firm or corporation was not the result of collusion, the giving
70 of a gift or the promise of a gift, compensation, fraud or inappropriate
71 influence from any person.

72 (c) Any principal or key personnel of the person, firm or corporation
73 submitting a bid or proposal for a large state contract shall [certify]
74 represent:

75 (1) That no gifts were made by (A) such person, firm, corporation,
76 (B) any principals and key personnel of the person, firm or
77 corporation, who participate substantially in preparing bids, proposals
78 or negotiating state contracts, or (C) any agent of such person, firm,
79 corporation or principals and key personnel, who participates
80 substantially in preparing bids, proposals or negotiating state
81 contracts, to (i) any public official or state employee of the state agency
82 or quasi-public agency soliciting bids or proposals for state contracts,
83 who participates substantially in the preparation of bid solicitations or

84 requests for proposals for state contracts or the negotiation or award of
85 state contracts, or (ii) any public official or state employee of any other
86 state agency, who has supervisory or appointing authority over such
87 state agency or quasi-public agency;

88 (2) That no such principals and key personnel of the person, firm or
89 corporation, or agent of such person, firm or corporation or principals
90 and key personnel, knows of any action by the person, firm or
91 corporation to circumvent such prohibition on gifts by providing for
92 any other principals and key personnel, official, employee or agent of
93 the person, firm or corporation to provide a gift to any such public
94 official or state employee; and

95 (3) That the person, firm or corporation is submitting bids or
96 proposals without fraud or collusion with any person.

97 (d) Any bidder or proposer that does not [make the certification]
98 agree to the representations required under this section shall be
99 [disqualified] rejected and the state agency or quasi-public agency
100 shall award the contract to the next highest ranked proposer or the
101 next lowest responsible qualified bidder or seek new bids or proposals.

102 (e) Each state agency and quasi-public agency shall include in the
103 bid specifications or request for proposals for a large state contract a
104 notice of the [certification] representation requirements of this section.

105 Sec. 3. Section 4-252a of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective July 1, 2019*):

107 (a) For purposes of this section, "state agency" and "quasi-public
108 agency" have the same meanings as provided in section 1-79, "large
109 state contract" has the same meaning as provided in section 4-250 and
110 "entity" means any corporation, general partnership, limited
111 partnership, limited liability partnership, joint venture, nonprofit
112 organization or other business organization whose principal place of
113 business is located outside of the United States, but excludes any
114 United States subsidiary of a foreign corporation.

115 (b) No state agency or quasi-public agency shall enter into any large
116 state contract, or amend or renew any such contract with any entity
117 [who (1) has failed to submit a written certification indicating whether
118 or not such entity has] unless such contract contains the representation
119 that such entity has not made a direct investment of twenty million
120 dollars or more in the energy sector of Iran on or after October 1, 2013,
121 as described in Section 202 of the Comprehensive Iran Sanctions,
122 Accountability and Divestment Act of 2010, [or has] and has not
123 increased or renewed such investment on or after said date. [, or (2)
124 has submitted a written certification indicating that such entity has
125 made such an investment on or after October 1, 2013, or has increased
126 or renewed such an investment on or after said date. Each such
127 certification shall be sworn as true to the best knowledge and belief of
128 the entity signing the certification, subject to the penalties of false
129 statement.]

130 (c) Each state agency and quasi-public agency shall include in the
131 bid specifications or request for proposals for a large state contract a
132 notice of the [certification] representation requirements of this section.
133 [Prior to submitting a bid or proposal for a large state contract, each
134 bidder or proposer who is an entity shall submit a certification that
135 such bidder or proposer has or has not made an investment as
136 described in subsection (b) of this section.]

137 (d) Any entity who makes a good faith effort to determine whether
138 such entity has made an investment described in subsection (b) of this
139 section shall not be subject to the penalties of false statement pursuant
140 to this section. A "good faith effort" for purposes of this subsection
141 includes a determination that such entity is not on the list of persons
142 who engage in certain investment activities in Iran created by the
143 Department of General Services of the state of California pursuant to
144 Division 2, Chapter 2.7 of the California Public Contract Code. Nothing
145 in this subsection shall be construed to impair the ability of the state
146 agency or quasi-public agency to pursue a breach of contract action for
147 any violation of the provisions of the contract.

148 (e) The provisions of this section shall not apply to any contract of
149 the Treasurer as trustee of the Connecticut retirement plans and trust
150 funds, as defined in section 3-13c, provided nothing in this subsection
151 shall be construed to prevent the Treasurer from performing his or her
152 fiduciary duties under section 3-13g.

153 Sec. 4. Section 4a-81 of the general statutes is repealed and the
154 following is substituted in lieu thereof (*Effective July 1, 2019*):

155 (a) Except as provided in section 10a-151f, no state agency or quasi-
156 public agency shall execute a contract for the purchase of goods or
157 services, which contract has a total value to the state of fifty thousand
158 dollars or more in any calendar or fiscal year, unless [the state agency
159 or quasi-public agency obtains the affidavit] such contract contains the
160 representations described in subsection (b) of this section.

161 (b) (1) [Any principal or key personnel of a person, firm or
162 corporation who submit bids or proposals for a] Each contract
163 described in subsection (a) of this section shall [attest in an affidavit as
164 to] include a representation whether any consulting agreement has
165 been entered into in connection with any such contract. Such [affidavit]
166 representation shall be required if any duties of the consultant
167 included communications concerning business of a state or quasi-
168 public agency, whether or not direct contact with a state agency, state
169 or public official or state employee was expected or made. As used in
170 this section, "consulting agreement" means any written or oral
171 agreement to retain the services, for a fee, of a consultant for the
172 purposes of (A) providing counsel to a contractor, vendor, consultant
173 or other entity seeking to conduct, or conducting, business with the
174 state, (B) contacting, whether in writing or orally, any executive,
175 judicial, or administrative office of the state, including any department,
176 institution, bureau, board, commission, authority, official or employee
177 for the purpose of solicitation, dispute resolution, introduction,
178 requests for information, or (C) any other similar activity related to
179 such contracts. "Consulting agreement" does not include any
180 agreements entered into with a consultant who is registered under the

181 provisions of chapter 10 as of the date such [affidavit is submitted]
182 contract is executed in accordance with the provisions of this section.

183 (2) Such [affidavit] representation shall be sworn as true to the best
184 knowledge and belief of the person signing the [certification on the
185 affidavit] contract and shall be subject to the penalties of false
186 statement.

187 (3) Such [affidavit] representation shall include the following
188 information for each consulting agreement listed: The name of the
189 consultant, the consultant's firm, the basic terms of the consulting
190 agreement, a brief description of the services provided, and an
191 indication as to whether the consultant is a former state employee or
192 public official. If the consultant is a former state employee or public
193 official, such [affidavit] representation shall indicate his or her former
194 agency and the date such employment terminated.

195 [(4) After the initial submission of such affidavit, the principal or
196 key personnel of the person, firm or corporation shall not be required
197 to resubmit such affidavit unless there is a change in the information
198 contained in such affidavit. If there is any change in the information
199 contained in the most recently filed affidavit required under this
200 section, the principal or key personnel of a person, firm or corporation
201 who submit bids or proposals for a contract described in subsection (a)
202 of this section shall submit an updated affidavit either (A) not later
203 than thirty days after the effective date of any such change, or (B) upon
204 the submittal of any new bid or proposal, whichever is earlier.]

205 (c) Each state agency and quasi-public agency shall include a notice
206 of the [affidavit] representation requirements of this section in the bid
207 specifications or request for proposals for any contract that is described
208 in subsection (a) of this section.

209 (d) If a bidder or vendor refuses to [submit the affidavit] agree to
210 the representation required under subsection (b) of this section, such
211 bidder or vendor shall be [disqualified] rejected and the state agency

212 or quasi-public agency shall award the contract to the next highest
213 ranked vendor or the next lowest responsible qualified bidder or seek
214 new bids or proposals.

215 Sec. 5. Subdivision (2) of subsection (f) of section 9-612 of the general
216 statutes is repealed and the following is substituted in lieu thereof
217 (*Effective July 1, 2019*):

218 (2) (A) No state contractor, prospective state contractor, principal of
219 a state contractor or principal of a prospective state contractor, with
220 regard to a state contract or a state contract solicitation with or from a
221 state agency in the executive branch or a quasi-public agency or a
222 holder, or principal of a holder, of a valid prequalification certificate,
223 shall make a contribution to, or, on and after January 1, 2011,
224 knowingly solicit contributions from the state contractor's or
225 prospective state contractor's employees or from a subcontractor or
226 principals of the subcontractor on behalf of (i) an exploratory
227 committee or candidate committee established by a candidate for
228 nomination or election to the office of Governor, Lieutenant Governor,
229 Attorney General, State Comptroller, Secretary of the State or State
230 Treasurer, (ii) a political committee authorized to make contributions
231 or expenditures to or for the benefit of such candidates, or (iii) a party
232 committee;

233 (B) No state contractor, prospective state contractor, principal of a
234 state contractor or principal of a prospective state contractor, with
235 regard to a state contract or a state contract solicitation with or from
236 the General Assembly or a holder, or principal of a holder, of a valid
237 prequalification certificate, shall make a contribution to, or, on and
238 after January 1, 2011, knowingly solicit contributions from the state
239 contractor's or prospective state contractor's employees or from a
240 subcontractor or principals of the subcontractor on behalf of (i) an
241 exploratory committee or candidate committee established by a
242 candidate for nomination or election to the office of state senator or
243 state representative, (ii) a political committee authorized to make
244 contributions or expenditures to or for the benefit of such candidates,

245 or (iii) a party committee;

246 (C) If a state contractor or principal of a state contractor makes or
247 solicits a contribution as prohibited under subparagraph (A) or (B) of
248 this subdivision, as determined by the State Elections Enforcement
249 Commission, the contracting state agency or quasi-public agency may,
250 in the case of a state contract executed on or after February 8, 2007,
251 void the existing contract with such contractor, and no state agency or
252 quasi-public agency shall award the state contractor a state contract or
253 an extension or an amendment to a state contract for one year after the
254 election for which such contribution is made or solicited unless the
255 commission determines that mitigating circumstances exist concerning
256 such violation. No violation of the prohibitions contained in
257 subparagraph (A) or (B) of this subdivision shall be deemed to have
258 occurred if, and only if, the improper contribution is returned to the
259 principal by the later of thirty days after receipt of such contribution
260 by the recipient committee treasurer or the filing date that corresponds
261 with the reporting period in which such contribution was made;

262 (D) If a prospective state contractor or principal of a prospective
263 state contractor makes or solicits a contribution as prohibited under
264 subparagraph (A) or (B) of this subdivision, as determined by the State
265 Elections Enforcement Commission, no state agency or quasi-public
266 agency shall award the prospective state contractor the contract
267 described in the state contract solicitation or any other state contract
268 for one year after the election for which such contribution is made or
269 solicited unless the commission determines that mitigating
270 circumstances exist concerning such violation. The Commissioner of
271 Administrative Services shall notify applicants of the provisions of this
272 subparagraph and subparagraphs (A) and (B) of this subdivision
273 during the prequalification application process; [and]

274 (E) The State Elections Enforcement Commission shall make
275 available to each state agency and quasi-public agency a written notice
276 advising state contractors and prospective state contractors of the
277 contribution and solicitation prohibitions contained in subparagraphs

278 (A) and (B) of this subdivision. Such notice shall: (i) Direct each state
279 contractor and prospective state contractor to inform each individual
280 described in subparagraph (F) of subdivision (1) of this subsection,
281 with regard to such state contractor or prospective state contractor,
282 about the provisions of subparagraph (A) or (B) of this subdivision,
283 whichever is applicable, and this subparagraph; (ii) inform each state
284 contractor and prospective state contractor of the civil and criminal
285 penalties that could be imposed for violations of such prohibitions if
286 any such contribution is made or solicited; (iii) inform each state
287 contractor and prospective state contractor that, in the case of a state
288 contractor, if any such contribution is made or solicited, the contract
289 may be voided; (iv) inform each state contractor and prospective state
290 contractor that, in the case of a prospective state contractor, if any such
291 contribution is made or solicited, the contract described in the state
292 contract solicitation shall not be awarded, unless the commission
293 determines that mitigating circumstances exist concerning such
294 violation; and (v) inform each state contractor and prospective state
295 contractor that the state will not award any other state contract to
296 anyone found in violation of such prohibitions for a period of one year
297 after the election for which such contribution is made or solicited,
298 unless the commission determines that mitigating circumstances exist
299 concerning such violation. Each state agency and quasi-public agency
300 shall [distribute such notice to the chief executive officer of its
301 contractors and prospective state contractors, or an authorized
302 signatory to a state contract, and shall obtain a written
303 acknowledgment of the receipt of such notice.] include in the bid
304 specifications or request for proposals for a large state contract a copy
305 of or Internet link to such notice. No state agency or quasi-public
306 agency shall execute a state contract unless such contract contains a
307 representation that the chief executive officer or authorized signatory
308 of the contract has received such notice; and

309 (F) (i) Any principal of the state contractor or prospective state
310 contractor submitting a bid or proposal for a state contract shall certify
311 that neither the contractor or prospective state contractor, nor any of its

312 principals, have made any contributions to, or solicited any
313 contributions on behalf of any party committee, exploratory
314 committee, candidate for state-wide office or for the General
315 Assembly, or political committee authorized to make contributions to
316 or expenditures to or for, the benefit of such candidates, in the
317 previous four years, that were determined by the State Elections
318 Enforcement Commission to be in violation of subparagraph (A) or (B)
319 of this subdivision, without mitigating circumstances having been
320 found to exist concerning such violation. Each such certification shall
321 be sworn as true to the best knowledge and belief of the person signing
322 the certification, subject to the penalties of false statement. If there is
323 any change in the information contained in the most recently filed
324 certification, such person shall submit an updated certification either
325 not later than thirty days after the effective date of any such change or
326 upon the submittal of any new bid or proposal for a state contract,
327 whichever is earlier.

328 (ii) Each state agency and quasi-public agency shall include in the
329 bid specifications or request for proposals for a state contract a notice
330 of the certification requirements of this subparagraph. No state agency
331 or quasi-public agency shall execute a state contract, unless the state
332 agency or quasi-public agency obtains the written certification
333 described in this subparagraph.

334 (iii) Any principal of the state contractor or prospective state
335 contractor submitting a bid or proposal for a state contract shall
336 disclose on the certification all contributions made by any of its
337 principals to any party committee, exploratory committee, candidate
338 for state-wide office or for the General Assembly, or political
339 committee authorized to make contributions to or expenditures to or
340 for the benefit of such candidates for a period of four years prior to the
341 signing of the contract or date of the response to the bid, whichever is
342 longer, and certify that all such contributions have been disclosed.

343 Sec. 6. Section 4a-60 of the general statutes is repealed and the
344 following is substituted in lieu thereof (*Effective July 1, 2019*):

345 (a) Except as provided in section 10a-151i, every contract to which
346 an awarding agency is a party, every quasi-public agency project
347 contract and every municipal public works contract shall contain the
348 following provisions:

349 (1) The contractor agrees and warrants that in the performance of
350 the contract such contractor will not discriminate or permit
351 discrimination against any person or group of persons on the grounds
352 of race, color, religious creed, age, marital status, national origin,
353 ancestry, sex, gender identity or expression, status as a veteran,
354 intellectual disability, mental disability or physical disability,
355 including, but not limited to, blindness, unless it is shown by such
356 contractor that such disability prevents performance of the work
357 involved, in any manner prohibited by the laws of the United States or
358 of the state of Connecticut; and the contractor further agrees to take
359 affirmative action to ensure that applicants with job-related
360 qualifications are employed and that employees are treated when
361 employed without regard to their race, color, religious creed, age,
362 marital status, national origin, ancestry, sex, gender identity or
363 expression, status as a veteran, intellectual disability, mental disability
364 or physical disability, including, but not limited to, blindness, unless it
365 is shown by such contractor that such disability prevents performance
366 of the work involved;

367 (2) The contractor agrees, in all solicitations or advertisements for
368 employees placed by or on behalf of the contractor, to state that it is an
369 "affirmative action-equal opportunity employer" in accordance with
370 regulations adopted by the Commission on Human Rights and
371 Opportunities;

372 (3) The contractor agrees to provide each labor union or
373 representative of workers with which such contractor has a collective
374 bargaining agreement or other contract or understanding and each
375 vendor with which such contractor has a contract or understanding, a
376 notice to be provided by the Commission on Human Rights and
377 Opportunities advising the labor union or workers' representative of

378 the contractor's commitments under this section, and to post copies of
379 the notice in conspicuous places available to employees and applicants
380 for employment;

381 (4) The contractor agrees to comply with each provision of this
382 section and sections 46a-68e and 46a-68f and with each regulation or
383 relevant order issued by said commission pursuant to sections 46a-56,
384 46a-68e, 46a-68f and 46a-86; and

385 (5) The contractor agrees to provide the Commission on Human
386 Rights and Opportunities with such information requested by the
387 commission, and permit access to pertinent books, records and
388 accounts, concerning the employment practices and procedures of the
389 contractor as relate to the provisions of this section and section 46a-56.

390 (b) If the contract is a public works contract, municipal public works
391 contract or contract for a quasi-public agency project, the contractor
392 agrees and warrants that he or she will make good faith efforts to
393 employ minority business enterprises as subcontractors and suppliers
394 of materials on such public works or quasi-public agency project.

395 (c) Except as provided in section 10a-151i:

396 (1) Any contractor who has one or more contracts with an awarding
397 agency, or who is a party to a municipal public works contract or a
398 contract for a quasi-public agency project, [where any such contract is
399 valued at less than fifty thousand dollars for each year of the contract,
400 shall provide the awarding agency, or in the case of a municipal public
401 works or quasi-public agency project contract, the Commission on
402 Human Rights and Opportunities, with a written or electronic
403 representation that complies with the nondiscrimination agreement
404 and warranty under subdivision (1) of subsection (a) of this section,
405 provided if there is any change in such representation, the contractor
406 shall provide the updated representation to the awarding agency or
407 commission not later than thirty days after such change] shall include
408 a nondiscrimination affirmation provision in the contract certifying

409 that the contractor understands the obligations of this section and will
410 maintain a policy for the duration of the contract to assure that the
411 contract will be performed in compliance with the nondiscrimination
412 requirements of subsection (a) of this section. The authorized signatory
413 of the contract shall demonstrate his or her understanding of this
414 obligation by either (A) initialing the nondiscrimination affirmation
415 provision in the body of the contract, or (B) providing an affirmative
416 response in the required online bid or response to a proposal question
417 which asks if the contractor understands its obligations.

418 [(2) Any contractor who has one or more contracts with an
419 awarding agency or who is a party to a municipal public works
420 contract or a contract for a quasi-public agency project, where any such
421 contract is valued at fifty thousand dollars or more for any year of the
422 contract, shall provide the awarding agency, or in the case of a
423 municipal public works or quasi-public agency project contract, the
424 Commission on Human Rights and Opportunities, with any one of the
425 following:

426 (A) Documentation in the form of a company or corporate policy
427 adopted by resolution of the board of directors, shareholders,
428 managers, members or other governing body of such contractor that
429 complies with the nondiscrimination agreement and warranty under
430 subdivision (1) of subsection (a) of this section;

431 (B) Documentation in the form of a company or corporate policy
432 adopted by a prior resolution of the board of directors, shareholders,
433 managers, members or other governing body of such contractor if (i)
434 the prior resolution is certified by a duly authorized corporate officer
435 of such contractor to be in effect on the date the documentation is
436 submitted, and (ii) the head of the awarding agency, or a designee, or
437 in the case of a municipal public works or quasi-public agency project
438 contract, the executive director of the Commission on Human Rights
439 and Opportunities or a designee, certifies that the prior resolution
440 complies with the nondiscrimination agreement and warranty under
441 subdivision (1) of subsection (a) of this section; or

442 (C) Documentation in the form of an affidavit signed under penalty
443 of false statement by a chief executive officer, president, chairperson or
444 other corporate officer duly authorized to adopt company or corporate
445 policy that certifies that the company or corporate policy of the
446 contractor complies with the nondiscrimination agreement and
447 warranty under subdivision (1) of subsection (a) of this section and is
448 in effect on the date the affidavit is signed.]

449 [(3)] (2) No awarding agency, or in the case of a municipal public
450 works contract, no municipality, or in the case of a quasi-public agency
451 project contract, no entity, shall award a contract to a contractor who
452 has not [provided the representation or documentation] included the
453 nondiscrimination affirmation provision and demonstrated its
454 understanding of such provision as required under [subdivisions]
455 subdivision (1) [and (2)] of this subsection. [, as applicable. After the
456 initial submission of such representation or documentation, the
457 contractor shall not be required to resubmit such representation or
458 documentation unless there is a change in the information contained in
459 such representation or documentation. If there is any change in the
460 information contained in the most recently filed representation or
461 updated documentation, the contractor shall submit an updated
462 representation or documentation, as applicable, either (A) not later
463 than thirty days after the effective date of such change, or (B) upon the
464 execution of a new contract with the awarding agency, municipality or
465 entity, as applicable, whichever is earlier. Such contractor shall also
466 certify, in accordance with subparagraph (B) or (C) of subdivision (2)
467 of this subsection, to the awarding agency or commission, as
468 applicable, not later than fourteen days after the twelve-month
469 anniversary of the most recently filed representation, documentation
470 or updated representation or documentation, that the representation
471 on file with the awarding agency or commission, as applicable, is
472 current and accurate.]

473 (d) For the purposes of this section, "contract" includes any
474 extension or modification of the contract, "contractor" includes any

475 successors or assigns of the contractor, "marital status" means being
476 single, married as recognized by the state of Connecticut, widowed,
477 separated or divorced, and "mental disability" means one or more
478 mental disorders, as defined in the most recent edition of the American
479 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
480 Disorders", or a record of or regarding a person as having one or more
481 such disorders. For the purposes of this section, "contract" does not
482 include a contract where each contractor is (1) a political subdivision of
483 the state, including, but not limited to, a municipality, unless the
484 contract is a municipal public works contract or quasi-public agency
485 project contract, (2) any other state, as defined in section 1-267, (3) the
486 federal government, (4) a foreign government, or (5) an agency of a
487 subdivision, state or government described in subdivision (1), (2), (3)
488 or (4) of this subsection.

489 (e) For the purposes of this section, "minority business enterprise"
490 means any small contractor or supplier of materials fifty-one per cent
491 or more of the capital stock, if any, or assets of which is owned by a
492 person or persons: (1) Who are active in the daily affairs of the
493 enterprise, (2) who have the power to direct the management and
494 policies of the enterprise, and (3) who are members of a minority, as
495 such term is defined in subsection (a) of section 32-9n; and "good faith"
496 means that degree of diligence which a reasonable person would
497 exercise in the performance of legal duties and obligations. "Good faith
498 efforts" shall include, but not be limited to, those reasonable initial
499 efforts necessary to comply with statutory or regulatory requirements
500 and additional or substituted efforts when it is determined that such
501 initial efforts will not be sufficient to comply with such requirements.

502 (f) Determination of the contractor's good faith efforts shall include,
503 but shall not be limited to, the following factors: The contractor's
504 employment and subcontracting policies, patterns and practices;
505 affirmative advertising, recruitment and training; technical assistance
506 activities and such other reasonable activities or efforts as the
507 Commission on Human Rights and Opportunities may prescribe that

508 are designed to ensure the participation of minority business
509 enterprises in public works projects.

510 (g) The contractor shall develop and maintain adequate
511 documentation, in a manner prescribed by the Commission on Human
512 Rights and Opportunities, of its good faith efforts.

513 (h) The contractor shall include the provisions of subsections (a) and
514 (b) of this section in every subcontract or purchase order entered into
515 in order to fulfill any obligation of a contract with the state, and in
516 every subcontract entered into in order to fulfill any obligation of a
517 municipal public works contract or contract for a quasi-public agency
518 project, and such provisions shall be binding on a subcontractor,
519 vendor or manufacturer, unless exempted by regulations or orders of
520 the Commission on Human Rights and Opportunities. The contractor
521 shall take such action with respect to any such subcontract or purchase
522 order as the commission may direct as a means of enforcing such
523 provisions, including sanctions for noncompliance in accordance with
524 section 46a-56; provided, if such contractor becomes involved in, or is
525 threatened with, litigation with a subcontractor or vendor as a result of
526 such direction by the commission regarding a state contract, the
527 contractor may request the state of Connecticut to enter into any such
528 litigation or negotiation prior thereto to protect the interests of the
529 state and the state may so enter.

530 Sec. 7. Section 4a-60a of the general statutes is repealed and the
531 following is substituted in lieu thereof (*Effective July 1, 2019*):

532 (a) Except as provided in section 10a-151i, every contract to which
533 an awarding agency is a party, every contract for a quasi-public agency
534 project and every municipal public works contract shall contain the
535 following provisions:

536 (1) The contractor agrees and warrants that in the performance of
537 the contract such contractor will not discriminate or permit
538 discrimination against any person or group of persons on the grounds

539 of sexual orientation, in any manner prohibited by the laws of the
540 United States or of the state of Connecticut, and that employees are
541 treated when employed without regard to their sexual orientation;

542 (2) The contractor agrees to provide each labor union or
543 representative of workers with which such contractor has a collective
544 bargaining agreement or other contract or understanding and each
545 vendor with which such contractor has a contract or understanding, a
546 notice to be provided by the Commission on Human Rights and
547 Opportunities advising the labor union or workers' representative of
548 the contractor's commitments under this section, and to post copies of
549 the notice in conspicuous places available to employees and applicants
550 for employment;

551 (3) The contractor agrees to comply with each provision of this
552 section and with each regulation or relevant order issued by said
553 commission pursuant to section 46a-56; and

554 (4) The contractor agrees to provide the Commission on Human
555 Rights and Opportunities with such information requested by the
556 commission, and permit access to pertinent books, records and
557 accounts, concerning the employment practices and procedures of the
558 contractor which relate to the provisions of this section and section
559 46a-56.

560 (b) Except as provided in section 10a-151i:

561 (1) Any contractor who has one or more contracts with an awarding
562 agency, or who is a party to a municipal public works contract or a
563 contract for a quasi-public agency project, [where any such contract is
564 valued at less than fifty thousand dollars for each year of the contract,
565 shall provide the awarding agency, or in the case of a municipal public
566 works or quasi-public agency project contract, the Commission on
567 Human Rights and Opportunities, with a written representation that
568 complies with the nondiscrimination agreement and warranty under
569 subdivision (1) of subsection (a) of this section.] shall include a

570 nondiscrimination affirmation provision in the contract certifying that
571 the contractor understands the obligations of this section and will
572 maintain a policy for the duration of the contract to assure that the
573 contract will be performed in compliance with the nondiscrimination
574 requirements of this section. The authorized signatory of the contract
575 shall demonstrate his or her understanding of this obligation by either
576 (A) initialing the nondiscrimination affirmation provision in the body
577 of the contract, or (B) providing an affirmative response in the required
578 online bid or response to a proposal question which asks if the
579 contractor understands its obligations.

580 [(2) Any contractor who has one or more contracts with an
581 awarding agency or who is a party to a municipal public works
582 contract or a contract for a quasi-public agency project, where any such
583 contract is valued at fifty thousand dollars or more for any year of the
584 contract, shall provide such awarding agency, or in the case of a
585 municipal public works or quasi-public agency project contract, the
586 Commission on Human Rights and Opportunities, with any of the
587 following:

588 (A) Documentation in the form of a company or corporate policy
589 adopted by resolution of the board of directors, shareholders,
590 managers, members or other governing body of such contractor that
591 complies with the nondiscrimination agreement and warranty under
592 subdivision (1) of subsection (a) of this section;

593 (B) Documentation in the form of a company or corporate policy
594 adopted by a prior resolution of the board of directors, shareholders,
595 managers, members or other governing body of such contractor if (i)
596 the prior resolution is certified by a duly authorized corporate officer
597 of such contractor to be in effect on the date the documentation is
598 submitted, and (ii) the head of the awarding agency, or a designee, or
599 in the case of a municipal public works or quasi-public agency project
600 contract, the executive director of the Commission on Human Rights
601 and Opportunities or a designee, certifies that the prior resolution
602 complies with the nondiscrimination agreement and warranty under

603 subdivision (1) of subsection (a) of this section; or

604 (C) Documentation in the form of an affidavit signed under penalty
605 of false statement by a chief executive officer, president, chairperson or
606 other corporate officer duly authorized to adopt company or corporate
607 policy that certifies that the company or corporate policy of the
608 contractor complies with the nondiscrimination agreement and
609 warranty under subdivision (1) of subsection (a) of this section and is
610 in effect on the date the affidavit is signed.]

611 [(3)] (2) No awarding agency, or in the case of a municipal public
612 works contract, no municipality, or in the case of a quasi-public agency
613 project contract, no entity, shall award a contract to a contractor who
614 has not [provided the representation or documentation] included the
615 nondiscrimination affirmation provision in the contract and
616 demonstrated its understanding of such provision as required under
617 [subdivisions (1) and (2)] subdivision (1) of this subsection. [, as
618 applicable. After the initial submission of such representation or
619 documentation, the contractor shall not be required to resubmit such
620 representation or documentation unless there is a change in the
621 information contained in such representation or documentation. If
622 there is any change in the information contained in the most recently
623 filed representation or updated documentation, the contractor shall
624 submit an updated representation or documentation, as applicable,
625 either (A) not later than thirty days after the effective date of such
626 change, or (B) upon the execution of a new contract with the awarding
627 agency, municipality, or entity, as applicable, whichever is earlier.
628 Such contractor shall also certify, in accordance with subparagraph (B)
629 or (C) of subdivision (2) of this subsection, to the awarding agency or
630 commission, as applicable, not later than fourteen days after the
631 twelve-month anniversary of the most recently filed representation,
632 documentation or updated representation or documentation, that the
633 representation on file with the awarding agency or commission, as
634 applicable, is current and accurate.]

635 (c) For the purposes of this section, "contract" includes any

636 extension or modification of the contract, and "contractor" includes any
 637 successors or assigns of the contractor. For the purposes of this section,
 638 "contract" does not include a contract where each contractor is (1) a
 639 political subdivision of the state, including, but not limited to, a
 640 municipality, unless the contract is a municipal public works contract
 641 or quasi-public agency project contract, (2) any other state, as defined
 642 in section 1-267, (3) the federal government, (4) a foreign government,
 643 or (5) an agency of a subdivision, state or government described in
 644 subdivision (1), (2), (3) or (4) of this subsection.

645 (d) The contractor shall include the provisions of subsection (a) of
 646 this section in every subcontract or purchase order entered into in
 647 order to fulfill any obligation of a contract with the state, and in every
 648 subcontract entered into in order to fulfill any obligation of a
 649 municipal public works contractor contract for a quasi-public agency
 650 project, and such provisions shall be binding on a subcontractor,
 651 vendor or manufacturer unless exempted by regulations or orders of
 652 the Commission on Human Rights and Opportunities. The contractor
 653 shall take such action with respect to any such subcontract or purchase
 654 order as the commission may direct as a means of enforcing such
 655 provisions, including sanctions for noncompliance in accordance with
 656 section 46a-56; provided, if such contractor becomes involved in, or is
 657 threatened with, litigation with a subcontractor or vendor as a result of
 658 such direction by the commission regarding a state contract, the
 659 contractor may request the state of Connecticut to enter into any such
 660 litigation or negotiation prior thereto to protect the interests of the
 661 state and the state may so enter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	1-101qq
Sec. 2	<i>July 1, 2019</i>	4-252
Sec. 3	<i>July 1, 2019</i>	4-252a
Sec. 4	<i>July 1, 2019</i>	4a-81
Sec. 5	<i>July 1, 2019</i>	9-612(f)(2)

Sec. 6	<i>July 1, 2019</i>	4a-60
Sec. 7	<i>July 1, 2019</i>	4a-60a

Statement of Legislative Commissioners:

In Section 5(f)(2)(F)(ii), "section" was changed to "subparagraph" for accuracy, and Section 7(b)(2) was rewritten for consistency with the provisions of Section 6(c)(2) and Section 7(b)(1).

GAE *Joint Favorable Subst.*