

# CHAPTER 58\*

## PURCHASES AND PRINTING

\*See note at end of sections 4c-1 to 4c-3, inclusive, re former use of this chapter number.

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Sec. 4a-50. (Formerly Sec. 4-109). Definitions. When used in this chapter, unless the context indicates a different meaning:

- (1) "State agency" includes any officer, department, board, council, commission, institution or other agency of the Executive Department of the state government;
- (2) "Supplies", "materials" and "equipment" mean any and all articles of personal property furnished to or used by any state agency, including all printing, binding, publication of laws, stationery, forms, and reports;
- (3) "Contractual services" means any and all laundry and cleaning service, pest control service, janitorial service, security service, the rental and repair, or maintenance, of equipment, machinery and other state-owned personal property, advertising and photostating, mimeographing, and other service arrangements where the services are provided by persons other than state employees;
- (4) "Competitive bidding" means the submission of prices by persons, firms or corporations competing for a contract to provide supplies, materials, equipment or contractual services, under a procedure in which the contracting authority does not negotiate prices;
- (5) "Competitive negotiation" means a procedure for contracting for supplies, materials, equipment or contractual services, in which (A) proposals are solicited from qualified suppliers by a request for proposals, and (B) changes may be negotiated in proposals and prices after being submitted;
- (6) "Bidder" means a person, firm or corporation submitting a competitive bid in response to a solicitation; and
- (7) "Proposer" means a person, firm or corporation submitting a proposal in response to a request for proposals.

**Sec. 4a-60g.** (Formerly Sec. 32-9e). Set-aside programs for small contractors and minority business enterprises.

(a) As used in this section and sections 4a-60h to 4a-60j, inclusive, the following terms have the following meanings:

(1) “Small contractor” means any contractor, subcontractor, manufacturer, service company or nonprofit corporation (A) that maintains its principal place of business in the state, (B) that had gross revenues not exceeding twenty million dollars in the most recently completed fiscal year prior to such application, and (C) that is independent. “Small contractor” does not include any person who is affiliated with another person if both persons considered together have a gross revenue exceeding twenty million dollars.

(2) “Independent” means the viability of the enterprise of the small contractor does not depend upon another person, as determined by an analysis of the small contractor's relationship with any other person in regards to the provision of personnel, facilities, equipment, other resources and financial support, including bonding.

(3) “State agency” means each state board, commission, department, office, institution, council or other agency with the power to contract for goods or services itself or through its head.

(4) “Minority business enterprise” means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons who (i) exercise operational authority over the daily affairs of the enterprise, (ii) have the power to direct the management and policies and receive the beneficial interest of the enterprise, (iii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, and (iv) are members of a minority, as such term is defined in subsection (a) of section 32-9n, or are individuals with a disability, or (B) which is a nonprofit corporation in which fifty-one per cent or more of the persons who (i) exercise operational authority over the enterprise, (ii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, (iii) have the power to direct the management and policies of the enterprise, and (iv) are members of a minority, as defined in this subsection, or are individuals with a disability.

(5) “Affiliated” means the relationship in which a person directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(6) “Control” means the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract or through any other direct or indirect means. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, twenty per cent or more of any voting securities of another person.

(7) “Person” means any individual, corporation, limited liability company, partnership, association, joint stock company, business trust, unincorporated organization or other entity.

(8) “Individual with a disability” means an individual (A) having a physical or mental impairment that substantially limits one or more of the major life activities of the individual, which mental impairment may include, but is not limited to, having one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's “Diagnostic and Statistical Manual of Mental Disorders”, or (B) having a record of such an impairment.

(9) “Nonprofit corporation” means a nonprofit corporation incorporated pursuant to chapter 602 or any predecessor statutes thereto.

(10) “Municipality” means any town, city, borough, consolidated town and city or consolidated town and borough.

(11) “Quasi-public agency” has the same meaning as provided in section 1-120.

(12) “Awarding agency” means a state agency or political subdivision of the state other than a municipality.

(13) "Public works contract" has the same meaning as provided in section 46a-68b.

(14) "Municipal public works contract" means that portion of an agreement entered into on or after October 1, 2015, between any individual, firm or corporation and a municipality for the construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees but excluding any project of an alliance district, as defined in section 10-262u, financed by state funding in an amount equal to fifty thousand dollars or less.

(15) "Quasi-public agency project" means the construction, rehabilitation, conversion, extension, demolition or repair of a building or other changes or improvements in real property pursuant to a contract entered into on or after October 1, 2015, which is financed in whole or in part by a quasi-public agency using state funds, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

(b) (1) It is found and determined that there is a serious need to help small contractors, minority business enterprises, nonprofit organizations and individuals with disabilities to be considered for and awarded state contracts for the purchase of goods and services, public works contracts, municipal public works contracts and contracts for quasi-public agency projects. Accordingly, the necessity of awarding such contracts in compliance with the provisions of this section, sections 4a-60h to 4a-60j, inclusive, and sections 32-9i to 32-9p, inclusive, for advancement of the public benefit and good, is declared as a matter of legislative determination.

(2) Notwithstanding any provisions of the general statutes, and except as set forth in this section, the head of each awarding agency shall set aside in each fiscal year, for award to small contractors, on the basis of competitive bidding procedures, contracts or portions of contracts for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. The total value of such contracts or portions thereof to be set aside by each such agency shall be at least twenty-five per cent of the total value of all contracts let by the head of such agency in each fiscal year, provided a contract for any goods or services which have been determined by the Commissioner of Administrative Services to be not customarily available from or supplied by small contractors shall not be included. Contracts or portions thereof having a value of not less than twenty-five per cent of the total value of all contracts or portions thereof to be set aside shall be reserved for awards to minority business enterprises.

(3) Notwithstanding any provision of the general statutes, and except as provided in this section, on and after October 1, 2015, each municipality when awarding a municipal public works contract shall state in its notice of solicitation for competitive bids or request for proposals or qualifications for such contract that the general or trade contractor shall be required to comply with the provisions of this section and the requirements concerning nondiscrimination and affirmative action under sections 4a-60 and 4a-60a. Any such contractor awarded a municipal public works contract shall, on the basis of competitive bidding procedures, (A) set aside at least twenty-five per cent of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and (B) of that portion to be set aside in accordance with subparagraph (A) of this subdivision, reserve a portion equivalent to twenty-five per cent of the total value of the contract or portion thereof to be set aside for awards to subcontractors who are minority business enterprises. The provisions of this section shall not apply to any municipality that has established a set-aside program pursuant to section 7-148u where the percentage of contracts set aside for minority business enterprises is equivalent to or exceeds the percentage set forth in this subsection.

(4) Notwithstanding any provision of the general statutes, and except as provided in this section, on and after October 1, 2015, any individual, firm or corporation that enters into a contract for a quasi-public agency project shall, prior to awarding such contract, notify the contractor to be awarded such project of the requirements of this section and the requirements concerning nondiscrimination and affirmative action under sections 4a-60 and 4a-60a. Any such contractor awarded a contract for a quasi-public agency project shall, on the basis of competitive bidding procedures, (A) set aside at least twenty-five per cent of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and (B) of that portion to be set aside in accordance with subparagraph (A) of this subdivision, reserve a portion equivalent to

twenty-five per cent of the total value of the contract or portions thereof to be set aside for awards to subcontractors who are minority business enterprises.

(5) Eligibility of nonprofit corporations under the provisions of this section shall be limited to predevelopment contracts awarded by the Commissioner of Housing for housing projects.

(6) In calculating the percentage of contracts to be set aside under subdivisions (2) to (4), inclusive, of this subsection, the awarding agency or contractor shall exclude any contract that may not be set aside due to a conflict with a federal law or regulation.

(c) The head of any awarding agency may, in lieu of setting aside any contract or portions thereof, require any general or trade contractor or any other entity authorized by such agency to award contracts, to set aside a portion of any contract for subcontractors who are eligible for set-aside contracts under this section. Nothing in this subsection shall be construed to diminish the total value of contracts which are required to be set aside by any awarding agency pursuant to this section.

(d) The head of each awarding agency shall notify the Commissioner of Administrative Services of all contracts to be set aside pursuant to subdivision (2) of subsection (b) or subsection (c) of this section at the time that bid documents for such contracts are made available to potential contractors.

(e) The awarding authority shall require that a contractor or subcontractor awarded a contract or a portion of a contract under this section perform not less than thirty per cent of the work with the workforces of such contractor or subcontractor and shall require that not less than fifty per cent of the work be performed by contractors or subcontractors eligible for awards under this section. A contractor awarded a contract or a portion of a contract under this section shall not subcontract with any person with whom the contractor is affiliated. No person who is affiliated with another person shall be eligible for awards under this section if both affiliated persons considered together would not qualify as a small contractor or a minority business enterprise under subsection (a) of this section. The awarding authority shall require that a contractor awarded a contract pursuant to this section submit, in writing, an explanation of any subcontract to such contract that is entered into with any person that is not eligible for the award of a contract pursuant to this section, prior to the performance of any work pursuant to such subcontract.

(f) The awarding authority may require that a contractor or subcontractor awarded a contract or a portion of a contract under this section furnish the following documentation: (1) A copy of the certificate of incorporation, certificate of limited partnership, partnership agreement or other organizational documents of the contractor or subcontractor; (2) a copy of federal income tax returns filed by the contractor or subcontractor for the previous year; and (3) evidence of payment of fair market value for the purchase or lease by the contractor or subcontractor of property or equipment from another contractor who is not eligible for set-aside contracts under this section.

(g) The awarding authority or the Commissioner of Administrative Services or the Commission on Human Rights and Opportunities may conduct an audit of the financial, corporate and business records and conduct an investigation of any small contractor or minority business enterprise which applies for or is awarded a set-aside contract for the purpose of determining eligibility for awards or compliance with the requirements established under this section.

(h) The provisions of this section shall not apply to (1) any awarding agency for which the total value of all contracts or portions of contracts of the types enumerated in subdivision (2) of subsection (b) of this section is anticipated to be equal to ten thousand dollars or less, or (2) any municipal public works contract or contract for a quasi-public agency project for which the total value of the contract is anticipated to be equal to fifty thousand dollars or less.

(i) In lieu of a performance, bid, labor and materials or other required bond, a contractor or subcontractor awarded a contract under this section may provide to the awarding authority, and the awarding authority shall accept a letter of credit. Any such letter of credit shall be in an amount equal to ten per cent of the contract for

any contract that is less than one hundred thousand dollars and in an amount equal to twenty-five per cent of the contract for any contract that exceeds one hundred thousand dollars.

(j) (1) Whenever the awarding agency has reason to believe that any contractor or subcontractor awarded a state set-aside contract has wilfully violated any provision of this section, the awarding agency shall send a notice to such contractor or subcontractor by certified mail, return receipt requested. Such notice shall include: (A) A reference to the provision alleged to be violated; (B) a short and plain statement of the matter asserted; (C) the maximum civil penalty that may be imposed for such violation; and (D) the time and place for the hearing. Such hearing shall be fixed for a date not earlier than fourteen days after the notice is mailed. The awarding agency shall send a copy of such notice to the Commission on Human Rights and Opportunities.

(2) The awarding agency shall hold a hearing on the violation asserted unless such contractor or subcontractor fails to appear. The hearing shall be held in accordance with the provisions of chapter 54. If, after the hearing, the awarding agency finds that the contractor or subcontractor has wilfully violated any provision of this section, the awarding agency shall suspend all set-aside contract payments to the contractor or subcontractor and may, in its discretion, order that a civil penalty not exceeding ten thousand dollars per violation be imposed on the contractor or subcontractor. If such contractor or subcontractor fails to appear for the hearing, the awarding agency may, as the facts require, order that a civil penalty not exceeding ten thousand dollars per violation be imposed on the contractor or subcontractor. The awarding agency shall send a copy of any order issued pursuant to this subsection by certified mail, return receipt requested, to the contractor or subcontractor named in such order. The awarding agency may cause proceedings to be instituted by the Attorney General for the enforcement of any order imposing a civil penalty issued under this subsection.

(k) (1) On or before January 1, 2000, the Commissioner of Administrative Services shall establish a process for certification of small contractors and minority business enterprises as eligible for set-aside contracts. Each certification shall be valid for a period not to exceed two years, unless the Commissioner of Administrative Services determines that an extension of such certification is warranted, provided any such extension shall not exceed a period of six months from such certification's original expiration date. Any paper application for certification shall be no longer than six pages. The Department of Administrative Services shall maintain on its web site an updated directory of small contractors and minority business enterprises certified under this section.

(2) The Commissioner of Administrative Services may deny an application for the initial issuance or renewal of such certification after issuing a written decision to the applicant setting forth the basis for such denial. The commissioner may revoke such certification for cause after notice and an opportunity for a hearing in accordance with the provisions of chapter 54. Any person aggrieved by the commissioner's decision to deny the issuance or renewal of or to revoke such certification may appeal such decision to the Superior Court, in accordance with the provisions of section 4-183.

(3) Whenever the Commissioner of Administrative Services has reason to believe that a small contractor or minority business enterprise who has applied for or received certification under this section has included a materially false statement in his or her application, the commissioner may impose a penalty not exceeding ten thousand dollars after notice and a hearing held in accordance with chapter 54. Such notice shall include (A) a reference to the statement or statements contained in the application alleged to be false, (B) the maximum civil penalty that may be imposed for such misrepresentation, and (C) the time and place of the hearing. Such hearing shall be fixed for a date not later than fourteen days from the date such notice is sent. The commissioner shall send a copy of such notice to the Commission on Human Rights and Opportunities.

(4) The commissioner shall hold a hearing prior to such revocation or denial or the imposition of a penalty, unless such contractor or subcontractor fails to appear. If, after the hearing, the commissioner finds that the contractor or subcontractor has wilfully included a materially false statement in his or her application for certification under this subsection, the commissioner shall revoke or deny the certification and may order that a civil penalty not exceeding ten thousand dollars be imposed on the contractor or subcontractor. If such contractor or subcontractor fails to appear for the hearing, the commissioner may, as the facts require, revoke or deny the certification and order that a civil penalty not exceeding ten thousand dollars be imposed on the contractor or subcontractor. The commissioner shall send a copy of any order issued pursuant to this subsection to the

contractor or subcontractor named in such order. The commissioner may cause proceedings to be instituted by the Attorney General for the enforcement of any order imposing a civil penalty issued under this subsection.

(l) On or before August thirtieth of each year, each awarding agency setting aside contracts or portions of contracts under subdivision (2) of subsection (b) of this section shall prepare a report establishing small and minority business state set-aside program goals for the twelve-month period beginning July first in the same year. Each such report shall be submitted to the Commissioner of Administrative Services, the Commission on Human Rights and Opportunities and the cochairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and government administration.

(m) On or before November first of each year and on a quarterly basis thereafter, each awarding agency setting aside contracts or portions of contracts under subdivision (2) of subsection (b) of this section shall prepare a status report on the implementation and results of its small business and minority business enterprise state set-aside program goals during the three-month period ending one month before the due date for the report. Each report shall be submitted to the Commissioner of Administrative Services and the Commission on Human Rights and Opportunities. Any awarding agency that achieves less than fifty per cent of its small contractor and minority business enterprise state set-aside program goals by the end of the second reporting period in any twelve-month period beginning on July first shall provide a written explanation to the Commissioner of Administrative Services and the Commission on Human Rights and Opportunities detailing how the awarding agency will achieve its goals in the final reporting period. The Commission on Human Rights and Opportunities shall: (1) Monitor the achievement of the annual goals established by each awarding agency; and (2) prepare a quarterly report concerning such goal achievement. The report shall be submitted to each awarding agency that submitted a report, the Commissioner of Economic and Community Development, the Commissioner of Administrative Services and the cochairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and government administration. Failure by any awarding agency to submit any reports required by this section shall be a violation of section 46a-77.

(n) Nothing in this section shall be construed to apply to the janitorial or service contracts awarded pursuant to subsections (b) to (d), inclusive, of section 4a-82.

(o) The Commissioner of Administrative Services may adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of this section.

(P.A. 76-185, S. 1; P.A. 77-425, S. 1; 77-614, S. 73, 135, 284, 587, 610; P.A. 79-631, S. 11, 111; P.A. 82-358, S. 3, 10; P.A. 83-390, S. 1; P.A. 84-412, S. 7, 8; P.A. 85-364; 85-370, S. 1, 2; P.A. 87-577, S. 1, 5; P.A. 88-351, S. 11, 16; P.A. 90-253, S. 1, 4; P.A. 92-189, S. 2; P.A. 93-359; 93-409, S. 1; P.A. 95-79, S. 119, 189; 95-250, S. 1; 95-334, S. 6-8, 13; P.A. 96-211, S. 1, 5, 6; 96-256, S. 187, 209; P.A. 99-233, S. 1, 7; P.A. 00-199, S. 1, 3; P.A. 01-195, S. 101-103, 181; P.A. 06-129, S. 7; June Sp. Sess. P.A. 07-4, S. 65, 66; P.A. 09-158, S. 3; P.A. 11-229, S. 7; P.A. 13-227, S. 3; 13-234, S. 10; 13-304, S. 1; P.A. 14-188, S. 11; 14-227, S. 5; P.A. 15-73, S. 1; June Sp. Sess. P.A. 15-5, S. 58-61, 88; P.A. 17-243, S. 5; P.A. 19-117, S. 348.)

History: P.A. 77-425 replaced references to “departments” with references to “commissioners” throughout section and included director of purchases, amended Subsec. (a) to add exception re conflict with federal law to make set-aside duty mandatory rather than optional, to include contracts for purchase of supplies, materials, equipment or contractual services, to specify minimum set-aside percentage of 15% and to clarify method of calculation and amended Subsec. (c) to change contract value limit from \$250,000 to \$500,000 and to substitute “fiscal” for “calendar” year; P.A. 77-614 replaced commissioner of public works and director of purchases with commissioner of administrative services and, effective January 1, 1979, replaced commissioner of commerce with commissioner of economic development; P.A. 79-631 substituted reference to Sec. 32-230 for reference to Sec. 8-168(e) in Subsec. (e); P.A. 82-358 amended Subsec. (b) to require that contracts or portions of them valued at 25% of the total contract value be reserved for minority business enterprises; P.A. 83-390 added new Subsec. (a) containing definitions and amended Subsecs. (b) to (d), inclusive, relative to procedures and limits of set aside program; P.A. 84-412 included political subdivisions of the state other than municipalities, amended

Subsec. (b) to read “the head of each state agency” rather than “the heads of all state agencies,” inserted Subsec. (c) concerning set asides by general contractors and Subsec. (f) concerning an exemption for certain agencies and political subdivisions, relettering previously existing Subsecs. as necessary; P.A. 85-364 inserted new Subsec. (f) awarding authority to require a contractor or subcontractor to perform not less than 15% of the work with his own forces and requiring at least 25% of the work to be performed by contractors or subcontractors, relettering remaining Subsecs. accordingly; P.A. 85-370 amended Subsec. (b) to insert provision allowing set-aside based on current year if average presents an extremely high or low range; P.A. 87-577 amended Subsec. (a) by adding subparagraph lettering, substituting \$3,000,000 for \$1,500,000 and adding requirement that at least 51% ownership be held by persons active in the affairs of the business in the definition of “small contractor” and redefining “minority business enterprise” to delete requirements that majority holder of stock or assets be active in daily affairs of the enterprise and have power to direct management and policies of enterprise, amended Subsec. (e) by substituting \$1,500,000 for \$750,000, amended Subsec. (f) by making mandatory the requirement that party awarded contract perform not less than 15% of work with own forces and added prohibition on subcontracting with business having interlocking ownership, management or employees, redesignated existing Subsec. (g) as Subsec. (i) and added new Subsecs. (g), (h) and (j) re required documentation, audits and procedures and penalties when section provisions are violated; P.A. 88-351 redefined “minority business enterprise” to require minority owners to be active in daily affairs of enterprise and to have power to direct management and policies, required total value of set-aside contracts to be at least 25% of average of total value of all contracts, deleting prior minimum of 15% in Subsec. (b), amended Subsec. (c) to specify applicability to “trade” contractor “or other entity authorized by such agency to award contracts”, and amended Subsec. (b) to permit commission on human rights and opportunities to conduct audit of financial records; P.A. 90-253 amended Subsec. (a) by adding definitions of “affiliated”, “control” and “person”, amended Subsec. (f) by deleting provisions re interlocking ownership, management or employees and adding provisions re subcontracting with affiliates and eligibility of affiliated persons for contract awards, and amended Subsec. (h) by adding provisions re audit of corporate and business records and investigations; P.A. 92-189 amended Subsec. (a) by adding any small contractor “who is an individual with a disability” to definition of “minority business enterprise” in Subdiv. (3) and adding Subdiv. (7) defining “individual with a disability”; P.A. 93-359 amended Subsec. (a) to redefine “small contractor” and “minority business enterprise” to include certain nonprofit corporations and to add a definition of “nonprofit corporation” and amended Subsec. (b) to limit eligibility of nonprofit corporations to predevelopment contracts awarded by the commissioner of housing; P.A. 93-409 redefined “small contractor” to raise maximum gross revenues from \$3,000,000 to \$10,000,000, amended Subsec. (e) by increasing the maximum contract award from \$1,500,000 to \$10,000,000, inserted new Subsec. (j) concerning a letter of credit, relettering former Subsec. (j) as (k), and added new Subsecs. (l) to (n), inclusive, re establishment by economic development commissioner of a certification process, re annual reports and re status reports, respectively; P.A. 95-79 amended Subsec. (a) to redefine “person” to include a limited liability company, effective May 31, 1995; P.A. 95-250 and P.A. 96-211 replaced Commissioner and Department of Economic Development and Commissioner and Department of Housing with Commissioner and Department of Economic and Community Development; P.A. 95-334 amended Subsec. (a) to redefine “small contractor” by inserting “under the same ownership and management” and “immediately”, amended Subsec. (j) by inserting reference to “bid, labor and materials or other required” bonds, amended Subsec. (m) by changing reporting deadline from July first to September thirtieth, annually, and amended Subsec. (n) by changing reporting deadline from October first to November first, quarterly, and requiring that reports be submitted to Commission on Human Rights and Opportunities, effective July 13, 1995; P.A. 96-256 amended definition of “nonprofit corporation” in Subsec. (a) by replacing reference to “chapter 600” with “chapter 602 or any predecessor statutes thereto”, effective January 1, 1997; P.A. 99-233 amended Subsec. (a)(1) and (3) to revise the definition of “small contractor” and “minority business enterprise” to include a business where at least 51% is owned by persons with operational authority over daily affairs instead of owned by persons active in daily affairs, amended Subsec. (b) to add provisions re serious need, amended Subsecs. (d), (e) and (h) to transfer authority from the Department of Economic and Community Development to the Department of Administrative Services, amended Subsec. (l) to require the Department of Administrative Services to establish a process for certification and added new Subsec. (o) concerning a precertification list, effective June 29, 1999; P.A. 00-199 amended Subsecs. (b)(2), (m) and (n) by replacing references to Commissioner of Economic and Community Development with references to Commissioner of Administrative Services, and further amended Subsec. (m) by adding reference to the committee on government administration and elections, and further amended Subsec. (n) by requiring that

the Commission on Human Rights and Opportunities monitor the achievement of the annual goals established by each state agency and political subdivision of the state other than municipalities and prepare a quarterly report concerning such goal achievement, and by requiring that the report be submitted to each agency submitting a report and to the Commissioners of Economic and Community Development and Administrative Services, and providing that failure to submit reports shall be a violation of Sec. 46a-77, effective June 1, 2000; Sec. 32-9e transferred to Sec. 4a-60g in 2001; P.A. 01-195 made technical changes in Subsecs. (a)(3), (a)(5) and (j), effective July 11, 2001; P.A. 06-129 added Subsec. (p) re janitorial contracts awarded pursuant to Sec. 4a-82(b) to (e), inclusive; June Sp. Sess. P.A. 07-4 redefined "small contractor" in Subsec. (a)(1) and "individual with a disability" in Subsec. (a)(7), amended Subsec. (b) to eliminate provision re ability of agency head to set aside an amount based on the amount of all contracts not excluded from the calculation which are anticipated to be let in any fiscal year, deleted former Subsec. (e) re limitation on total amount of contract recommended or awarded, redesignated existing Subsecs. (f) to (p) as Subsecs. (e) to (o), amended Subsec. (e) to require written explanation of any subcontract entered into with a person not eligible for award of a contract under section, amended Subsec. (j) re duties of awarding authority, amended Subsec. (k) to replace provisions re printed directory and quarterly update with provision re updated directory maintained on web site, amended Subsec. (l) to replace "September 30, 1995," with "August 30, 2007," amended Subsec. (m) to require written explanation of how an agency will achieve its goals in the final reporting period if not reached by the end of the second reporting period and made technical changes, effective July 1, 2007, and further redefined "small contractor" in Subsec. (a)(1) to increase gross revenues under Subpara. (B) from \$10,000,000 to \$15,000,000, effective January 1, 2008; P.A. 09-158 redefined "individual with a disability" in Subsec. (a)(7), effective June 30, 2009; P.A. 11-229 amended Subsec. (a)(1) to redefine "small contractor", deleted former Subsec. (n) re precertification list and redesignated existing Subsec. (o) as Subsec. (n); P.A. 13-227 amended Subsec. (n) to delete "four" re janitorial contracts and replace reference to Sec. 4a-82(e) with reference to Sec. 4a-82(d); P.A. 13-234 amended Subsec. (b) to replace reference to Commissioner of Economic and Community Development with reference to Commissioner of Housing, effective July 1, 2013; P.A. 13-304 amended Subsec. (a) to redefine "small contractor" in Subdiv. (1), to add new Subdiv. (2) defining "independent", to redesignate existing Subdivs. (2) to (8) as Subdivs. (3) to (9) and to redefine "minority business enterprise" in redesignated Subdiv. (4), amended Subsec. (e) to increase requirements for contract performance from 15 per cent to 30 per cent and from 25 per cent to 50 per cent, amended Subsec. (k) to designate existing provisions re process for certification as Subdiv. (1) and to add Subdivs. (2), (3) and (4) re revocation of certification, penalty for materially false statement, and hearing prior to revocation and denial or imposition of penalty, respectively, and added Subsec. (o) re regulations for implementation (Revisor's note: In Subsec. (k)(3), a reference to "Commission on Human Rights" was changed editorially by the Revisors to "Commission on Human Rights and Opportunities" for accuracy); P.A. 14-188 amended Subsec. (n) to add reference to service contracts; P.A. 14-227 amended Subsec. (k)(2) to add provisions allowing commissioner, in addition to revoking certification, to deny an application for initial issuance or renewal of certification; P.A. 15-73 amended Subsec. (k)(1) to permit commissioner to extend certification for not more than 6 months from expiration date, effective July 1, 2015; June Sp. Sess. P.A. 15-5 amended Subsec. (a) by adding Subdivs. (10) to (15) defining "municipality", "quasi-public agency", "awarding agency", "public works contract", "municipal public works contract" and "quasi-public agency project", amended Subsec. (b) by designating existing provisions re legislative determination as new Subdiv. (1) and amending same by replacing reference to construction, reconstruction or rehabilitation of public buildings and the construction and maintenance of highways with reference to public works contracts, municipal public works contracts and contracts for quasi-public agency projects, deleting reference to public interest, adding reference to advancement of public benefit and good, designating existing provisions re set asides as new Subdiv. (2) and amending same by deleting provisions re eligibility of nonprofit corporations and contract that may not be set aside, deleting former Subdiv. designators (1) and (2), adding Subdiv. (3) re municipal public works contracts, adding Subdiv. (4) re quasi-public agency project contracts, adding Subdiv. (5) re eligibility of nonprofit corporations, and adding Subdiv. (6) re calculation of percentage of contracts to be set aside, amended Subsecs. (c), (h), (l) and (m) by changing "state agency" to "awarding agency" and deleting references to political subdivision of the state other than a municipality, amended Subsec. (d) by replacing reference to heads of state agencies and political subdivision of the state other than a municipality with heads of awarding agencies and changing reference from Subsec. (b) to Subsec. (b)(2), amended Subsec. (h) by designating existing provision as Subdiv. (1), adding Subdiv. (2) re municipal public works and quasi-public agency project contracts and changing reference from Subsec. (b) to Subsec. (b)(2), amended Subsec. (j) by changing "awarding authority" to

“awarding agency”, and, in Subdiv. (1), adding “state” re “set-aside”, amended Subsec. (l) by replacing “August 30, 2007, and annually thereafter” with “August first of each year”, adding reference to Subsec. (b)(2), adding “state” re “set-aside” and deleting “and elections.”, amended Subsec. (m) by replacing “November 1, 1995, and” with “November first of each year and on a”, adding reference to Subsec. (b)(2), adding “state” re “set-aside” and deleting “and elections.”, and made technical changes, effective October 1, 2015, and amended Subsec. (a) (11) by redefining “quasi-public agency”, effective January 1, 2016; P.A. 17-243 amended Subsec. (l) to replace “August first” with “August thirtieth”, effective July 11, 2017; P.A. 19-117 amended Subsec. (a)(1) by redefining “small contractor”.

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Sec. 4a-60h. (Formerly Sec. 32-9f). Administration of state set-aside program. Administration of set-aside program for municipal public works and quasi-public agency project contracts. Regulations. (a) The Commissioner of Administrative Services shall be responsible for the administration of the set-aside program for public works contracts and state contracts for goods and services, as described in subdivision (2) of subsection (b) of section 4a-60g. The commissioner shall conduct regular training sessions, as often as the commissioner deems necessary, for state agencies to explain the state set-aside program and to specify the factors that must be addressed in calculating awarding agency goals under the program. The commissioner shall conduct informational workshops to inform businesses of state set-aside opportunities and responsibilities.

(b) The Commission on Human Rights and Opportunities shall be responsible for the administration of the set-aside program for municipal public works contracts and contracts for quasi-public agency projects, as described in subdivisions (3) and (4) of subsection (b) of section 4a-60g. The commission shall conduct regular training sessions, as often as the commission deems necessary, for municipalities, quasi-public agencies and contractors to explain the municipal and quasi-public agency project set-aside program. The commission may adopt regulations in accordance with the provisions of chapter 54, to carry out the purposes of sections 4a-60g to 4a-60j, inclusive, in regard to the municipal and quasi-public agency project set-aside program.

(c) In any case where an individual contract is both a public works contract of an awarding agency and a quasi-public agency project contract, the provisions of this chapter governing awarding agency public works contracts shall apply to such contract.

(d) The Commissioner of Administrative Services shall adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of sections 4a-60g to 4a-60j, inclusive, in regard to the state set-aside program. Such regulations shall include (1) provisions concerning the application of the program to individuals with a disability; (2) guidelines for a legally acceptable format for, and content of, letters of credit authorized under subsection (j) of section 4a-60g; (3) procedures for random site visits to the place of business of an applicant for certification at the time of application and at subsequent times, as necessary, to ensure the integrity of the application process; and (4) time limits for approval or disapproval of applications.

(e) On or before January 1, 1994, the Commissioner of Administrative Services shall, by regulations adopted in accordance with chapter 54, establish a process to ensure that small contractors, small businesses and minority business enterprises have fair access to all competitive state contracts outside of the state set-aside program.

(P.A. 76-185, S. 2; P.A. 77-425, S. 3; 77-614, S. 284, 610; P.A. 92-189, S. 3; P.A. 93-409, S. 2; P.A. 95-250, S. 1; 95-334, S. 9, 13; P.A. 96-211, S. 1, 5, 6; P.A. 99-233, S. 2, 7; June Sp. Sess. P.A. 15-5, S. 62.)

History: P.A. 77-425 replaced department of commerce with commissioner of commerce; P.A. 77-614 replaced commissioner of commerce with commissioner of economic development, effective January 1, 1979; P.A. 92-189 added provision requiring regulations to address application of program to individuals with a disability; P.A. 93-409 designated existing provisions as Subsec. (a) and added new Subsec. (b) requiring the commissioner to adopt regulations assuring fair access to state contracts for small contractors, small businesses and minority business enterprises; P.A. 95-250 and P.A. 96-211 replaced Commissioner and Department of Economic Development with Commissioner and Department of Economic and Community Development; P.A. 95-334