

**Sec. 4a-59. (Formerly Sec. 4-114). Award of contracts.**

(a) As used in this section, (1) "lowest responsible qualified bidder" means the bidder whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary to faithful performance of the work based on objective criteria considering past performance and financial responsibility, and (2) "highest scoring bidder in a multiple criteria bid" means the bidder whose bid receives the highest score for a combination of attributes, including, but not limited to, price, skill, ability and integrity necessary for the faithful performance of the work, based on multiple criteria considering quality of product, warranty, life-cycle cost, past performance, financial responsibility and other objective criteria that are established in the bid solicitation for the contract.

(b) All bids and proposals submitted as provided in section 4a-57 shall be based on such standard specifications as may be adopted by the Commissioner of Administrative Services or the commissioner's designee. Bidders shall submit with their bids essential information concerning their qualifications, in such form as the commissioner may require by specification in the bid documents. The commissioner may, after adopting the regulations required by subdivision (11) of section 4a-52, waive minor irregularities in bids and proposals if the commissioner determines that such a waiver would be in the best interest of the state. The commissioner shall state the reasons for any such waiver in writing and include such statement in the contract file.

(c) All open market orders or contracts shall be awarded to (1) the lowest responsible qualified bidder, the qualities of the articles to be supplied, their conformity with the specifications, their suitability to the requirements of the state government and the delivery terms being taken into consideration and, at the discretion of the Commissioner of Administrative Services, life-cycle costs and trade-in or resale value of the articles may be considered where it appears to be in the best interest of the state, (2) the highest scoring bidder in a multiple criteria bid, in accordance with the criteria set forth in the bid solicitation for the contract, or (3) the proposer whose proposal is deemed by the awarding authority to be the most advantageous to the state, in accordance with the criteria set forth in the request for proposals, including price and evaluation factors. Notwithstanding any provision of the general statutes to the contrary, each state agency awarding a contract through competitive negotiation shall include price as an explicit factor in the criteria in the request for proposals and for the contract award. In considering past performance of a bidder for the purpose of determining the "lowest responsible qualified bidder" or the "highest scoring bidder in a multiple criteria bid", the commissioner shall evaluate the skill, ability and integrity of the bidder in terms of the bidder's fulfillment of past contract obligations and the bidder's experience or lack of experience in delivering supplies, materials, equipment or contractual services of the size or amount for which bids have been solicited. In determining the lowest responsible qualified bidder for the purposes of this section, the commissioner may give a price preference of up to ten per cent for (A) the purchase of goods made with recycled materials or the purchase of recyclable or remanufactured products if the commissioner determines that such preference would promote recycling or remanufacturing. As used in this subsection, "recyclable" means able to be collected, separated or otherwise recovered from the solid waste stream for reuse, or for use in the manufacture or assembly of another package or product, by means of a recycling program which is reasonably available to at least seventy-five per cent of the state's population, "remanufactured" means restored to its original function and thereby diverted from the solid waste stream by retaining the bulk of components that have been used at least once and by replacing consumable components and "remanufacturing" means any process by which a product is remanufactured; **(B) the purchase of motor vehicles powered by a clean alternative fuel; (C) the purchase of motor vehicles**

**powered by fuel other than a clean alternative fuel and conversion equipment to convert such motor vehicles allowing the vehicles to be powered by either the exclusive use of clean alternative fuel or dual use of a clean alternative fuel and a fuel other than a clean alternative fuel. As used in this subsection, "clean alternative fuel" shall mean natural gas or electricity when used as a motor vehicle fuel;** or (D) the purchase of goods or services from micro businesses. As used in this subsection, "micro business" means a business with gross revenues not exceeding three million dollars in the most recently completed fiscal year. All other factors being equal, preference shall be given to supplies, materials and equipment produced, assembled or manufactured in the state and services originating and provided in the state. If any such bidder refuses to accept, within ten days, a contract awarded to such bidder, such contract may be awarded to the next lowest responsible qualified bidder or the next highest scoring bidder in a multiple criteria bid, whichever is applicable, and so on until such contract is awarded and accepted. If any such proposer refuses to accept, within ten days, a contract awarded to such proposer, such contract shall be awarded to the next most advantageous proposer, and so on until the contract is awarded and accepted. There shall be a written evaluation made of each bid. This evaluation shall identify the vendors and their respective costs and prices, document the reason why any vendor is deemed to be nonresponsive and recommend a vendor for award. A contract valued at one million dollars or more shall be awarded to a bidder other than the lowest responsible qualified bidder or the highest scoring bidder in a multiple criteria bid, whichever is applicable, only with written approval signed by the Commissioner of Administrative Services and by the Comptroller. The commissioner shall submit to the joint standing committee of the General Assembly having cognizance of matters relating to government administration, the State Auditors and the Comptroller, an annual report of all awards made pursuant to the provisions of this section.

(d) When, in the opinion of the commissioner, the best interest of the state will be served thereby, the commissioner may order that any or all bids or proposals may be rejected. If all bids or proposals are so rejected, the commissioner shall advertise again for bids or proposals and such bids or proposals shall be opened, awarded and approved in like manner as provided in this section and section 4a-57. If all bids or proposals received on a pending contract are for the same unit price or total amount and no distinction can be made in favor of supplies, materials and equipment produced, assembled or manufactured in the state or services originating and provided in the state, the commissioner shall have authority to order the rejection of all bids or proposals and to order the purchase of the required supplies, materials, equipment or contractual services in the open market, provided the price paid in the open market shall not exceed the bid or proposal price.

(e) Each bid or proposal, with the name of the bidder, or proposer, shall be entered on a record, and each record, with the successful bid or proposal indicated thereon, shall, after the award of the order or contract, be open to public inspection. All contracts shall be approved as to form by the Attorney General and a copy of each contract shall be filed with the Comptroller.

(f) Not later than February 1, 2002, the Commissioner of Administrative Services shall adopt regulations, in accordance with the provisions of chapter 54, indicating the types of objective criteria that the commissioner may use in determining the highest scoring bidder in a multiple criteria bid under this section. Said commissioner shall submit a report on said date, concerning the status of the adoption of said regulations by the commissioner, to the joint standing committee of the General Assembly having cognizance of matters relating to government administration.

(1949 Rev., S. 253; 1959, P.A. 258, S. 6; 1967, P.A. 139; P.A. 77-614, S. 96, 610; P.A. 88-18;

88-231, S. 2; 88-297, S. 6; P.A. 90-252, S. 3, 10; P.A. 91-57, S. 3; 91-179, S. 4, 5; P.A. 92-188, S. 3, 4; P.A. 94-126, S. 5; P.A. 95-285, S. 5, 9; P.A. 96-156, S. 2; P.A. 99-213, S. 3; P.A. 01-106, S. 3, 6; P.A. 09-184, S. 3.)

History: 1959 act substituted "director of purchases" for "supervisor of purchases"; 1967 act allowed consideration of trade-in or resale value; P.A. 77-614 replaced director of purchases with commissioner of administrative services; P.A. 88-18 required preference to be given to in-state supplies, materials, equipment and services, if all other factors are equal; P.A. 88-231 added provision authorizing commissioner to give a price preference for goods made with recycled materials; P.A. 88-297 added provisions re proposals and proposers, authorized life-cycle costs to be considered in determining lowest responsible qualified bidder, and made technical changes; Sec. 4-114 transferred to Sec. 4a-59 in 1989; P.A. 90-252 divided section into Subsecs. adding provisions in Subsec. (a) defining "lowest responsible qualified bidder", in Subsec. (b) requiring bidders to submit essential information re qualifications and authorizing commissioner to waive minor irregularities and in Subsec. (c) specifying procedure for considering past performance in determining "lowest responsible qualified bidder"; P.A. 91-57 made a technical change; P.A. 91-179 added new Subsecs. (C)(2) and (3) authorizing a price preference for the purchase of a motor vehicle powered by clean alternative fuel and authorizing a price preference for the purchase of conversion equipment; P.A. 92-188 amended Subsec. (c) authorizing a price preference for the purchase of a new motor vehicle or conversion equipment for a vehicle powered by electricity and replaced second set of numeric Subdiv. indicators with alphabetic indicators; P.A. 94-126 amended Subsec. (c) by specifying price and evaluation factors as criteria in Subdiv. (2) and adding provisions re written evaluation of each bid, award of contracts valued at \$1,000,000 or more to bidder other than the lowest responsible qualified bidder and annual report of awards made; P.A. 95-285 substituted "Commissioner of Administrative Services or his designee" for "Standardization Committee" in Subsec. (b), effective July 1, 1995; P.A. 96-156 amended Subsec. (c) to require state agencies to include price as a factor in the criteria in the request for proposals; P.A. 99-213 amended Subsec. (c) to authorize the commissioner to give price preferences in determining the lowest responsible qualified bidder for the purchase of recyclable or remanufactured products and to define the terms "recyclable", "remanufactured" and "remanufacturing" and made technical changes; P.A. 01-106 amended Subsec. (a) by designating definition of "lowest responsible qualified bidder" as Subdiv. (1) and adding Subdiv. (2) defining "highest scoring bidder in a multiple criteria bid", made technical changes in Subsec. (b), amended Subsec. (c) by adding new Subdiv. (2) re multiple criteria bidding, renumbering former Subdiv. (2) as Subdiv. (3) and applying other provisions to multiple criteria bidding, made a technical change in Subsec. (d) and added Subsec. (f) requiring Commissioner of Administrative Services to adopt regulations re multiple criteria bidding, effective July 1, 2001; P.A. 09-184 added Subsec. (c)(3)(D) re purchase of goods or services from micro businesses, effective July 1, 2009.

Department may reject proposal if it deems such action is in best interests of state. Department may consider, in addition to price, past performance of bidder, including skill, ability and integrity. Such assessment includes some subjective analysis, which is a wholly permissible exercise of department's discretion and does not amount to favoritism. 93 CA 327.