

Commission on Human Rights and Opportunities

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Contract Compliance

Secs. 46a-68j-1—46a-68j-18.

Repealed, August 23, 1990.

Secs. 46a-68j-19—46a-68j-20. Reserved

Part I

Definitions and General Provisions

Sec. 46a-68j-21. Definitions

As used in Sections 46a-68j-21 to 46a-68j-43 inclusive:

(1) "Affirmative action" means positive action, undertaken with conviction and effort, to overcome the present effects of past discriminatory practices, to achieve the full and fair participation of women and minorities in contract and employment opportunity, and to assure that qualified minority business enterprises enter the economic mainstream of this state's economy. Additionally, "affirmative action" shall mean the responsibility of contractors to develop and implement strategies to achieve equality of contracting and employment opportunity as required by Sections 46a-68c and 46a-68d of the Connecticut General Statutes, as amended by Sections 3 and 4, respectively, of Public Act 89-253;

(2) "Agency" means the state or any political subdivision of the state other than a municipality;

(3) "Awarding agency" means an agency which has awarded or granted a contract subject to Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253;

(4) "Commission" means the commission on human rights and opportunities created by Section 46a-52 of the Connecticut General Statutes as amended by Section 1 of Public Act 89-332;

(5) "Contract" means any agreement, written or otherwise, between any person and an awarding agency for goods or services;

(6) "Contract compliance requirements" or "contract compliance statutes" means, if the awarding agency is the state, both Sections 4a-60, as amended by Section 2 of Public Act 89-253, and 46a-71(d) of the Connecticut General Statutes; and, if the awarding agency is a political subdivision of the state other than a municipality, but not the state, only Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253;

(7) "Contractor" means a party to a contract with an awarding agency, and includes a contractor's agents, successors, assigns or any other present or future enterprise sharing one or more of the following characteristics with the contractor: (a) interlocking directorships; (b) interrelation of operations (c) common management; (d) common control of labor relations, (e) common ownership of stock, equipment or materials; (f) common financial control of operations; or (g) any other factor evidencing such intermingling of affairs that it is unjust to recognize the separate existence of otherwise nominally independent entities. In addition to the foregoing, the word "contractor" shall include a subcontractor if the awarding agency is the state or if the contract is for a public works project;

(8) "Discriminatory practice" means the violation of law referred to in Section 46a-51(8) of the Connecticut General Statutes;

(9) "Good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;

(10) "Good faith efforts" means, but is not limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;

(11) "Minority business enterprise" means a business meeting the criteria set forth in Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253;

(12) "Party" means a person having a legal or property interest in a contract;

(13) "Person" means one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers and the state and all political subdivisions and agencies thereof;

(14) "Political subdivision of the state" means a body politic and corporate or other public instrumentality exercising some portion of the sovereign power of the State of Connecticut;

(15) "Protected group" means those classes or groups of persons specified in and protected by either applicable state or federal antidiscrimination laws, except that, for affirmative action purposes, the limitations set forth in Section 46a-61 of the Connecticut General Statutes shall apply;

(16) "Public works contract" or "public works project" means a contract for public works as defined in Section 46a-68b of the Connecticut General Statutes as amended by Section 1 of Public Act 89-253;

(17) "Reasonable technical assistance and training" means, but is not limited to, the extension of the following kinds of support services by a contractor to a minority business enterprise: providing assistance in bidding and estimating costs of projects, goods or services; providing assistance in the selection, organization and scheduling of suitable projects, goods or services; providing equipment or skilled personnel, under the direction and control of the minority business enterprise, to allow such enterprise either to bid on or complete a project or to obtain or supply goods or services; or any advice, assistance or training of a similar character designed to allow the minority business enterprise to enter into or fulfill contractual obligations;

(18) "State" means the state of Connecticut including each agency, department, board, commission or council thereof but not any political subdivision of the state or a municipality;

(19) "Subcontract" means any agreement subordinate to another contract, written or otherwise, between a party to the original contract and one who is not a party to that contract;

(20) "Subcontractor" means a party to a subcontract with a contractor who has agreed to provide some or all of the goods and services the original contractor is required to provide;

(21) "Support data" means statistical data, books and records of account, personnel files and other materials and information regarding compliance with antidiscrimination and contract compliance statutes;

(22) "Technical assistance and training" means the financial, technical or other resources traditionally unavailable to minority business enterprises that a contractor extends to enable such enterprises to compete in the market place as any other contractor, such assistance being provided by the contractor in such a way and in such a manner as not to compromise or impair the integrity of such enterprises as

legitimate minority businesses fully meeting the requirements of Section 4a-60 of the Connecticut General Statutes.

(Effective August 23, 1990)

Sec. 46a-68j-22. Nondiscrimination clause

(a) Every contract or subcontract subject to contract compliance requirements shall contain the covenants required by Section 4a-60 of Connecticut General Statutes, as amended by Section 2 of Public Act 89-253.

(b) The contract provisions required by Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of the Public Act 89-253, shall be an implied term of every contract to which an awarding agency is a party, regardless of whether they are expressly incorporated into the contract.

(c) Failure to include the contract provision required by Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, in a contract or subcontract subject to contract compliance requirements, or ignorance of contract compliance requirements shall not excuse a party from complying with the mandates expressed in Sections 4a-60, as amended by Section 2 of Public Act 89-253, or 46a-71 (d) of the Connecticut General Statutes.

(Effective August 23, 1990)

Part II

Obligations of Contractors

Sec. 46a-68j-23. Obligations of contractors

Every contractor awarded a contract subject to contract compliance requirements shall:

(1) comply fully with all federal and state antidiscrimination and contract compliance laws, and shall not discriminate or permit a discriminatory practice to be committed;

(2) cooperate fully with the commission;

(3) submit periodic reports of its employment and subcontracting practices in such a form, in such a manner and at such a time as may be prescribed by the commission;

(4) provide reasonable technical assistance and training to minority business enterprises to promote the participation of such concerns in state contracts and subcontracts;

(5) make a good faith effort, based upon the availability of minority business enterprises in the labor market area, to award a reasonable proportion of all subcontracts to such enterprises;

(6) maintain full and accurate support data for a period of two (2) years from the date the record is made or the date the contract compliance form is submitted, whichever is later, provided that this provision shall not excuse compliance with any other applicable record retention statute, regulation or policy providing for a period of retention in excess of two (2) years;

(7) not discharge, discipline or otherwise discriminate against any person who has filed a complaint, testified or assisted in any proceeding with the commission;

(8) make available for inspection and copying any support data requested by the commission, and make available for interview any agent, servant or employee having knowledge of any matter concerning the investigation of a discriminatory practice complaint or any matter relating to a contract compliance review;

(9) include a provision in all subcontracts with minority business enterprises requiring that the minority business enterprise provide the commission with such information on its structure and operations as the commission finds necessary to make an informed determination as to whether the standards of Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, have been met; and

(10) undertake such other reasonable activities or efforts as the commission may prescribe to ensure the participation of minority business enterprises as state contractors and subcontractors.

(Effective August 23, 1990)

Sec. 46a-68j-24. Utilization of minority business enterprises

(a) Contractors shall make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on all projects subject to contract compliance requirements.

(b) Contractors shall certify under oath to the commission and the awarding agency that minority businesses selected as subcontractors and suppliers of materials meet the criteria for minority business enterprises set out in Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, if such businesses are not currently registered with the department of economic development and if the contractor wishes the commission to consider favorably the selection of an unregistered minority business enterprise in the evaluation of the contractor's good faith efforts. If the contractor does not wish the commission to consider its selection of an unregistered minority business enterprise in its evaluation of the contractor's good faith efforts, no certification need be made. The commission shall accept the registration of a minority business enterprise by the department of economic development, unless the commission determines, pursuant to Section 46a-68j-35, or from information received pursuant to Section 46a-68e of the Connecticut General Statutes that an enterprise fails to meet the standards contained in Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253. Pursuant to Section 46a-77 of the Connecticut General Statutes, the department of economic development and other interested state agencies shall cooperate with the commission to assure that a uniform and complete list of legitimate minority business enterprises is maintained to promote the full and fair utilization of such enterprises in all contracts subject to minority business enterprise requirements.

(c) Where the awarding agency is the state or where the contract awarded is for a public works project, the commission, in its evaluation of a contractor's good faith efforts, may require that a minority business enterprise selected as a subcontractor or supplier of materials provide the commission with such information on its structure and operations as the commission finds necessary to make an informed determination as to whether the standards contained in Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, have been met. If the minority business enterprise, whether registered or not registered with the department of economic development, fails to provide the commission with the required information and the contractor fails to demand performance by the subcontractor, the commission shall not consider such enterprise in its evaluation of the contractor's good faith efforts.

(d) Awarding agencies shall carefully monitor the contractor's selection of subcontractors and suppliers of materials to ensure compliance with Section 32-9e of the Connecticut General Statutes and Section 46a-68-35 (b). The awarding agency's

obligation to monitor the contractor's actions shall be a continuing one, and failure to do so shall be deemed a failure to cooperate with the commission.

(e) The commission shall monitor a contractor's good faith efforts in the same manner provided for monitoring a contractor's compliance with antidiscrimination and contract compliance statutes.

(Effective August 23, 1990)

Sec. 46a-68j-25. Affirmative action obligations of contractors required to file plans pursuant to Section 46a-68c of the Connecticut General Statutes, as amended by Section 3 of Public Act 89-253

(a) In addition to the obligations of Section 46a-68j-23, and 24, a contractor subject to the requirements of Section 46a-68c of the Connecticut General Statutes, as amended by Section 3 of Public Act 89-253, shall develop and implement an affirmative action plan conforming to Section 46a-68j-27. Such plan shall be filed with the commission within thirty (30) days of the date the contract is awarded. For good cause shown, the commission may extend the time for filing the plan. No plan shall be considered a plan unless and until it is approved by the commission. Plans shall contain the following elements more particularly described in Section 46a-68j-27:

- (1) policy statement;
- (2) internal communication;
- (3) external communication;
- (4) assignment of responsibility;
- (5) organizational analysis;
- (6) work force analysis;
- (7) availability analysis;
- (8) utilization analysis;
- (9) hiring/promotion goals and timetables; and
- (10) concluding statement and signature.

(b) A contractor currently operating an affirmative action program pursuant to an approved affirmative action plan containing substantially all the elements listed in Section 46a-68j-25 (a) may apply to the commission for permission to file that plan in lieu of the plan elements described in Section 46a-68j-27. An application to file such plan shall be in writing, with a copy of the proposed plan attached to the application, describing why such plan should be accepted by the commission. The commission may accept as substantially equivalent any plan prepared in accordance with and fully meeting the requirements of:

- (1) 41 CFR Part 60-2, if the contractor is a nonconstruction contractor;
- (2) 41 CFR Part 60-4, if the contractor is a construction contractor;
- (3) the guidelines on affirmative action appearing at 29 CFR Sections 1608.1 through 1608.12, inclusive;
- (4) Sections 46a-68-1 through 46a-68-73, inclusive, of the Regulations of Connecticut State Agencies; or;
- (5) the terms of any other regulation, order or decree deemed by the commission to meet affirmative action requirements.

The commission shall not unreasonably withhold acceptance of alternative plans meeting the standards of Section 46a-68j-25 (a). The Commission may also accept, as complying with the requirements of Section 46a-68j-25 (a), an affirmative action plan approved in the manner provided for in Section 46a-68k of the Connecticut General Statutes and Sections 46a-68k-1 through 46a-68k-8.

(c) The commission shall review affirmative action plans within sixty (60) days of receipt from the contractor. The commission may approve, disapprove, or approve in part and disapprove in part any plan so submitted. An approved plan must:

(1) contain all the elements required by Section 46a-68j-25 (a), or acceptable equivalent provisions;

(2) comply with the particulars of Section 46a-68j-27 or appropriate substitute rules for the development of affirmative action plans contained in Section 46a-68j-25 (a); and

(3) demonstrate that the contractor's work force favorably reflects the composition of workers in the relevant labor market area or that the goals and timetables contained in the plan are likely to achieve such result.

The commission shall issue a certificate of compliance to a contractor when its affirmative action plan has been approved.

(d) If the commission disapproves an affirmative action plan in whole or in part, it shall notify the contractor in writing within ten (10) days of the disapproval. The notice shall state the reason for disapproval and may provide proposals necessary to bring the plan into compliance. The contractor shall submit a new or amended plan within thirty (30) days of the date the notice of disapproval is mailed by the commission. If the new or amended plan is disapproved, the commission may take appropriate action to obtain compliance with Section 46a-68c of the Connecticut General Statutes.

(e) The commission may monitor a contractor's implementation of its affirmative action plan at any time and may request, in the manner provided for in Section 46a-68j-33 (b), any and all information and support data relating to compliance with Section 46a-68c of the Connecticut General Statutes, as amended by Section 3 of Public Act 89-253. In conducting such a review, the commission may employ the review and monitoring authority vested in it in Sections 46a-68j-34 to 46a-68j-36, inclusive.

(Effective August 23, 1990)

Sec. 46a-68j-26. Affirmative action obligations of contractors required to file plans pursuant to Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253

(a) In addition to the obligations of Sections 46a-68j-23, 46a-68j-24 and 46a-68j-25, a contractor subject to the requirements of Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253, shall develop and implement an affirmative action plan conforming to Section 46a-68j-28. Such plan shall be filed with the commission within thirty (30) days after a bid has been accepted by an awarding agency, or in advance of or at the same time as the bid is submitted, as the contractor elects. For good cause shown, the commission may extend the time for filing a plan, provided that the awarding agency agrees in writing to withhold two per cent of the total contract price per month until the plan is filed and approved by the commission. No plan shall be considered a plan unless and until it has been approved by the commission. Plans shall contain all elements listed in Section 46a-68j-25, as well as the following elements more particularly described in Section 46a-68j-28:

- (1) employment analysis;
- (2) subcontractor availability analysis;
- (3) minority business enterprises goals and timetables;
- (4) program goals and timetables; and
- (5) minority business enterprises assistance and innovative programs.

(b) Any contractor currently operating an affirmative action program pursuant to an affirmative action plan containing substantially all the elements listed in Sections 46a-68j-25 (a) and 46a-68j-26 (a) may petition the commission for permission to file that plan in lieu of the plan otherwise required. An application to file such plan shall be in writing, with a copy of the proposed plan attached to the application, describing why the plan should be accepted by the commission. The commission may accept as substantially equivalent any plan meeting the requirements of Section 46a-68j-25 (b), provided that the plan or any supplements to it address all areas otherwise required by Sections 46a-68j-25 (a) and 46a-68j-26 (a). The Commission may also accept as substantially equivalent an affirmative action plan approved in the manner provided for in Section 46a-68k of the Connecticut General Statutes and Sections 46a-68k-1 through 46a-68k-8.

(c) The commission shall review affirmative action plans within sixty (60) days of receipt from the contractor. The commission may approve, approve with conditions or reject any plan so submitted. In addition to the standards announced in Section 46a-68j-25 (c), an approved plan must:

(1) demonstrate a full and fair commitment to the utilization of minority business enterprises as subcontractors and suppliers of materials.

The commission shall issue a certificate of compliance to a contractor when its affirmative action plan has been approved and shall notify the agency that the contract may be awarded.

(d) If a plan does not meet the standards for an approved plan, the commission may either disapprove or conditionally approve the plan. The commission shall notify the contractor and agency intending to award the contract in writing within ten (10) days of the disapproval or conditional approval. The notice shall state the reason for the commission action and may set forth proposals necessary to bring the plan into compliance. The contractor shall submit a new or amended plan, or provide written assurances that it will amend its plan to conform to affirmative action requirements, within thirty (30) days of the date the notice is mailed by the commission. If the new or amended plan is disapproved, and the contractor fails to provide written assurances that it will amend its plan, the commission may take appropriate steps to obtain compliance with Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253 including a recommendation that the contract not be awarded, as the case may be.

(e) The commission may conditionally approve a plan only if:

(1) the plan contains all the elements listed in Sections 46a-68j-25 (a) and 46a-68j-26 (a) or equivalent authority accepted by the commission;

(2) the plan meets a majority of the criteria for approval under Sections 46a-68j-25 (c) and 46a-68j-26 (c);

(3) the contractor provides written assurances that it will amend its plan to conform to commission proposals submitted in accordance with Section 46a-68j-25 (d) to meet affirmative action requirements;

(4) the contractor promises to pledge its best good faith efforts to implement the commission's proposals within agreed upon timetables; and

(5) the contractor takes appreciable steps to implement at least some of the commission's proposals as a token of its commitment to achieve compliance prior to providing written assurances to the commission.

The commission shall closely monitor any contractor granted conditional approval of its affirmative action plan, and shall take all necessary action to assure that the contractor continues to meet affirmative action requirements. If a contractor fails

to abide by its written assurances, the commission shall take appropriate action, including notifying the contractor and awarding agency that the commission has revoked its conditional approval or approval of the plan and that the agency should withhold payment to the contractor as provided for in Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253.

(f) At any time after the commission grants conditional approval of an affirmative action plan, a contractor may apply for full approval of the plan. An application for approval shall be in writing and shall state what action the contractor has taken to meet affirmative action requirements. The commission shall evaluate an application for approval of an affirmative action plan according to the procedures outlined in Sections 46a-68j-25 (c) and 46a-68j-26 (c). The commission shall notify the contractor and agency within ten (10) days of its decision. The commission shall treat such an application for approval as a new plan, and may approve, approve with conditions or disapprove the request.

(g) The commission shall closely monitor the implementation of affirmative action plans required by Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253. The commission may request, in the manner provided for in Section 46a-68j-33 (b), any and all information and support data relating to compliance with Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253. In conducting such a review, the commission may employ the review and monitoring authority vested in it in Sections 46a-68j-34 to 46a-68j-36, inclusive.

(Effective August 23, 1990)

Sec. 46a-68j-27. Elements of plans required by Section 46a-68c of the Connecticut General Statutes as amended by Section 3 of Public Act 89-253

Affirmative action plans required by Sections 46a-68c and 46a-68d of the Connecticut General Statutes as amended shall contain the following elements as described below:

(1) policy statement. The policy statement shall be signed and dated by the contractor: (A) identifying the individual assigned affirmative action responsibilities; (B) affirming the contractor's commitment to achieve equal employment opportunity through affirmative action; and (C) pledging the contractor's best good faith efforts to attain the objectives of the plan;

(2) internal communication. The policy statement and a summary of the objectives of the plan shall be posted and otherwise made known to all workers. The plan shall indicate what steps the contractor undertook to make information on the plan available to its work force;

(3) external communication. The contractor shall, in all advertisements and business with the public, indicate that it is an affirmative action/equal opportunity employer. The plan shall include information on what steps the contractor undertook to advise the public concerning its affirmative action requirements;

(4) assignment of responsibility. The contractor shall designate affirmative action responsibilities to an affirmative action officer. In addition to his or her other duties, the affirmative action officer shall: (A) develop, implement and monitor progress on the contractor's affirmative action plan; (B) acquaint workers with their specific responsibilities under the plan; (C) initiate and maintain contact with unions, recruiting sources and organizations serving members of protected groups concerning the achievement of affirmative action requirements; and (D) conduct meetings and orientation sessions, as necessary, to advise workers and management of the goals

of the plan. The plan shall report all activity taken by the affirmative action officer to achieve these objectives;

(5) organizational analysis. As a preparatory step to the work force analysis, the contractor shall list each job title as it appears in collective bargaining agreements, job specifications or payroll records, ranked from the lowest to the highest paid. Job titles shall be listed by department or other organizational unit.

For lines of progression, the plan shall indicate the order of jobs through which a worker may advance. Job titles without a line of progression shall be listed separately;

(6) work force analysis. For each job title identified in the organizational analysis, the plan shall report: (A) the total number of incumbents; (B) the total number of male and female incumbents; and (C) the total number of male and female incumbents in each of the following groups: (i) whites; (ii) blacks; (iii) Hispanics; and (iv) others;

(7) availability analysis. As a preparatory step to determining whether minorities and females are fairly utilized in the work force, the contractor shall: (A) conduct an analysis which (i) examines the job content of each job title; (ii) identifies a relevant labor market area for each job title; and (iii) matches each job title to the most similar job title in the data source consulted; and (B) calculate the availability of groups identified in Section 46a-68j-27 (6) from: (i) employment figures in the relevant labor market area; (ii) unemployment figures in the relevant labor market area; (iii) the availability of promotable and transferrable persons in the contractor's work force; (iv) the availability of persons having requisite skills in an area in which the contractor can reasonably recruit; (v) the existence of training institutions or apprenticeship programs capable of training persons in the requisite skills; (vi) the availability of minority business enterprises as subcontractors and suppliers of materials; (vii) the degree of technical assistance the contractor is able to provide to minority business enterprises; and/or (viii) any other relevant source;

(8) utilization analysis. To determine whether minorities and females are fully and fairly utilized, the plan shall compare the representation of these groups in the work force, taken from Section 46a-68j-27 (6), with the availability of such persons for employment, calculated in Section 46a-68j-27 (7).

To determine the expected number of minorities and females, the contractor shall multiply the total number of workers in a job title by the representation of each group listed in Section 46a-68j-27 (6) (C), with the availability of each group expressed as a decimal.

Comparison of the resulting figure to the figures obtained from Section 46a-68j-27 (6) will yield a conclusion that a group in the work force is overutilized, underutilized or at parity when compared to the availability of minorities and females for employment. The plan shall set forth the results of all computations and conclusions on the utilization of minorities and females in the work force.

(9) goals and timetables. For each instance of underutilization in the work force, the contractor shall set goals to increase the representation of minorities and females among its workers. Goals shall not be rigid quotas which must be met at any cost, but shall be significant, measurable and attainable objectives with timetables for completion. In establishing the length of timetables, the contractor shall consider the anticipated expansion, contraction and turnover of the work force and the results which may reasonably be expected from putting forth every good faith effort to make the affirmative action plan an effective instrument for achieving equal employment opportunity; and

(10) concluding statement and signature. Affirmative action plans shall contain a concluding provision signed and dated by the contractor stating that the contractor:

(A) has read the plan and that the contents of the plan are true and correct to the best of his or her knowledge and belief; and (B) pledges his or her best good faith efforts to achieve the objectives of the plan within established timetables.

(Effective August 23, 1990)

Sec. 46a-68j-28. Elements of plans required by Section 46a-68d of the Connecticut General Statutes as amended by Section 4 of Public Act 89-253

In addition to the elements in Section 46a-68j-27, affirmative action plans subject to the requirements of Section 46a-68d of the Connecticut General Statutes as amended shall contain the following elements as described below:

(1) employment analysis. The contractor shall undertake a comprehensive review of the employment process to identify policies and practices that build in or perpetuate barriers to equal employment opportunity. Where applicable, the following factors shall be addressed: (A) job qualifications; (B) job specifications; (C) recruitment practices; (D) personnel policies; (E) job structuring; (F) training and apprenticeship programs; (G) subcontracting practices; and (H) layoff and termination policies. The plan shall report what activities were undertaken to identify barriers to equal employment opportunity;

(2) subcontractor availability analysis. When a contractor intends to subcontract all or part of the work to be performed under a state contract to one or more subcontractors, the contractor shall consult the listing of minority business enterprises maintained by the department of economic development, the practical experience of other contractors, contacts developed by the contractor itself, trade publications and similar sources to develop a base from which the contractor might reasonably be expected to draw minority business enterprises from. The plan shall indicate what sources were consulted and whether the enterprise was ready and able to perform the required work or supply necessary materials;

(3) minority business enterprise goals and timetables. Based upon the availability of minority business enterprises calculated in Section 46a-68j-28 (2), the contractor shall set goals for awarding all or a reasonable portion of the contract to qualified minority business enterprises. The plan shall detail what steps it took to make such opportunities available;

(4) program goals and timetables. Where the employment analysis has identified barriers to equal employment opportunity, the contractor shall design specific corrective measures in the form of program goals to eliminate the barriers. Goals shall be accompanied by timetables designed to achieve compliance with affirmative action objectives within the shortest reasonable limits possible. The plan shall describe all actions taken to identify problem areas and realize program goals; and

(5) minority business enterprise assistance and innovative programs. Consistent with Sections 46a-68j-21 (17) and 46a-68j-21 (22), the contractor shall develop programs to assist minority business enterprises in entering the economic mainstream. The plan shall detail what programs the contractor has created to accomplish this endeavor.

(Effective August 23, 1990)

Sec. 46a-68j-29. Exempt contractors and subcontractors

(a) A contractor meeting the following requirements may at any time apply to the commission for exemption from contract compliance requirements and the commission may exempt a contractor if:

(1) the contractor has been found in compliance with antidiscrimination or contract compliance statutes, as provided for in Section 46a-68j-32 (c);

(2) the work to be performed under the contract is to be or has been performed outside the state and no recruitment of workers within the limits of the state is involved;

(3) the contract awarded is for less than \$10,000.00;

(4) the number of workers employed by the contractor or subcontractor to perform the contract totals twenty-five (25) or less; or

(5) the contractor is a sole source provider of goods or services not readily available and the benefit to the state greatly outweighs contract compliance considerations.

(b) A contractor meeting the following requirements may at any time apply to the commission for partial exemption from contract compliance requirements and the commission may exempt a contractor if:

(1) the contractor maintains facilities which are in all respects separate and distinct from activities related to the performance of the contract; or

(2) the contract involves a subcontract meeting the criteria set forth in Section 46a-68j-29 (a).

(c) An application for exemption or partial exemption shall be in writing and shall identify the subpart or subparts of Section 46a-68j-29 (a) or 46a-68j-29 (b) the contractor relies upon to qualify for exemption. The application shall be accompanied by such support data as is necessary to fully document the validity of the request. Pursuant to Section 46a-68e of the Connecticut General Statutes, the commission may from time to time require that additional information be provided. The commission shall not approve an application unless the support data convincingly demonstrates that the contractor qualifies for exemption from contract compliance requirements. The commission shall notify the contractor and awarding agency of its determination within thirty (30) days of its receipt of the application or additional support data, whichever is later.

(d) a contractor or subcontractor may petition the commission for exemption from the requirements of Section 4a-60 (e) of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, and the commission may exempt a contractor or subcontractor if:

(1) the total value of any subcontract or subcontracts awarded within one fiscal year or calendar year from the date the initial subcontract is awarded is less than ten thousand (\$10,000.00) dollars;

(2) the contractor and subcontractor are bound by a contractual relationship which was entered into prior to the awarding of the contract with the state for goods or services substantially identical to the goods or services required to fulfill the contractor's obligations to the state, and performance of the subcontractor's responsibilities under the state contract are incidental to the preexisting contract;

(3) the subcontractor does business outside the state and is not otherwise subject to the laws of the State of Connecticut;

(4) the commission, pursuant to Section 46a-68j-29, has exempted the contract from contract compliance requirements;

(5) the subcontractor has developed and implemented an affirmative action plan or promises to develop and implement such a plan, or submits such support data to convince the commission that such a plan is not needed to achieve equal employment opportunity;

(6) the number of workers employed by the subcontractor or any subcontractor thereto to perform the subcontract to the contractor totals less than twenty-five (25); or

(7) the benefit to the state greatly outweighs the commission's interest in obtaining compliance with Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253.

(Effective August 23, 1990)

Part III

Obligations of Awarding Agencies

Sec. 46a-68j-30. Obligations of awarding agencies

Every agency awarding a contract subject to contract compliance requirements shall:

(1) consult the Connecticut Law Journal pursuant to Section 46a-68j-41, before awarding a contract to ascertain that a potential contractor has not been issued a notice of noncompliance;

(2) if the awarding agency is the state or if the contract is for a public works project, consult the list of minority business enterprises prepared by the department of economic development or the list of such enterprises maintained by other agencies and monitor the contractor's choice of subcontractors and suppliers of materials;

(3) comply fully with all federal and state antidiscrimination laws and regulations including, if the awarding agency is required to file an affirmative action plan with the commission, Section 46a-68-35;

(4) cooperate fully with the commission;

(5) submit periodic reports of its employment and contracting practices in such form, in such a manner and at such a time as may be prescribed by the commission;

(6) maintain full and adequate support data for a period of two (2) years from the date the record is made or the date the contract was executed, whichever is later, provided that this requirement shall not excuse compliance with any other applicable record retention statute, regulation or policy providing for a period of retention in excess of two (2) years;

(7) make available for inspection and copying any support data requested by the commission, and make available for interview any agent, servant, employee or other person having knowledge of any matter concerning the investigation of a discriminatory practice complaint or relating to a contract compliance review;

(8) notify all bidders, on a form developed by the commission, that the contract to be awarded is subject to contract compliance requirements;

(9) aggressively solicit the participation of legitimate minority business enterprises as bidders, contractors, subcontractors and suppliers of materials;

(10) consider, as bearing upon the responsibility and qualification of a bidder to meet its contract compliance requirements, the following factors:

(A) the bidder's success in implementing an affirmative action plan;

(B) the bidder's success in developing an apprenticeship program complying with Sections 46a-68-1 to 46a-68-17, inclusive;

(C) the bidder's promise to develop and implement a successful affirmative action plan;

(D) the bidder's submission of EEO-1 data indicating that the composition of its work force is at or near parity when compared to the racial and sexual composition of the work force in the relevant labor market area;

(E) the bidder's promise to set aside a portion of the contract for legitimate minority business enterprises; and

(11) report, as part of its affirmative action plan under Section 46a-68-49, all efforts and activity directed to awarding a fair proportion of its contracts to minority business enterprises; and

(12) undertake such other reasonable activities or efforts as the commission may prescribe.

(Effective August 23, 1990)

Sec. 46a-68j-31. Notification of contract awards by awarding agency

(a) An awarding agency shall notify the commission of all contracts subject to contract compliance requirements within ten (10) days of the date the contract is executed. Notice of the contract award shall be on a form provided by the commission and include:

(1) the name, address, telephone number and principal place of business of the contractor;

(2) total number of employees of the contractor (if known);

(3) if the awarding agency is the state or if the contract is for a public works project, the name, address, telephone number and principal place of business of each subcontractor;

(4) if the awarding agency is the state or if the contract is for a public works project, a statement as to how the criteria contained in Section 46a-68j-30 (a) (10) were applied in the selection of the successful bidder, and a statement as to what agreement, if any, was reached between the contractor and awarding agency to assure that the contractor will satisfy the contract compliance requirements contained in the contract;

(5) a statement whether the contract is a public works contract;

(6) the duration of the contract;

(7) the dollar value of the contract; and

(8) the name, job title, address and telephone number of the person at the awarding agency whom the commission may contact if further information is required.

(b) an awarding agency shall not be required to report contracts otherwise subject to contract compliance requirements if the contract awarded is:

(1) for commodities or goods in the amount of \$3,000.00 or less; or

(2) for leases, rental or personal service agreements in the amount of \$4,000.00 or less.

(c) Failure to comply with the requirements of Section 46a-68j-31 (a) shall be deemed a failure to cooperate with the commission.

(Effective August 23, 1990)

Sec. 46a-68j-32. Contract monitoring reports

(a) Upon notification by an awarding agency, the commission shall forward a contract monitoring report form to each contractor identified pursuant to Section 46a-68j-31 as a contractor under contract to the state or a political subdivision of the state other than a municipality. Each contractor so identified shall provide full and complete information on the contractor's employment practices and procedures related to compliance with antidiscrimination and contract compliance statutes. Contract monitoring reports shall be filed with the commission within thirty (30) days from the date the form is received by the contractor. Forms shall be considered received by the contractor on or before the third day after the date the form is mailed by the commission, unless the contractor establishes otherwise.

(b) For good cause shown, the commission may grant an extension of time for submission of a contract monitoring report. Requests for extensions of time shall

be made in writing within the time that the report form is otherwise scheduled to be provided, and shall set forth specific reasons for requesting the extension.

(c) The commission shall excuse a contractor from the requirements of this Section, if the commission has determined that the contractor is in compliance with state or federal antidiscrimination and contract compliance statutes, provided that the commission's determination of compliance has been made within one (1) year preceding the date the commission is notified, pursuant to Section 46a-68j-31, that a subsequent contract has been awarded to the same contractor. It shall be the responsibility of the contractor to provide evidence demonstrating that it has been found to be in compliance with either state or federal antidiscrimination and contract compliance statutes by an agency of competent authority. For other good and compelling reason, the commission may likewise excuse a class or classes of contractors from the requirements of this section.

(d) Failure to fully complete a contract monitoring report form within the designated time shall be a violation of Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253.

(Effective August 23, 1990)

Part IV

Review and Monitoring

Sec. 46a-68j-33. Desk audit review

(a) The commission shall review contract monitoring report forms received pursuant to Section 46a-68j-32 to assess the contractor's conformance with antidiscrimination and contract compliance statutes.

(b) The commission may require contractors to provide such other and further information to assess the contractor's conformance with antidiscrimination and contract compliance statutes. Requests for additional information shall be made in writing and shall describe the information sought. The provisions and time limitations of Section 46a-68j-32 shall govern the treatment of requests for additional information.

(c) Contractors determined to be in conformance with antidiscrimination and contract compliance statutes, based upon a review of the contract monitoring report and any other information provided pursuant to this section, shall be notified in writing by the commission. A copy of the notice shall be sent to the awarding agency.

(d) The commission's determination that a contractor is in conformance with antidiscrimination or contract compliance statutes shall not preclude a determination that a discriminatory practice has been committed in a proceeding under Chapter 814c of the Connecticut General Statutes, as amended or in a proceeding under the laws of the United States of America.

(Effective August 23, 1990)

Sec. 46a-68j-34. Field review

(a) **The commission may conduct a field review:**

- (1) whenever review of a contract monitoring report form suggests that a contractor may be in violation of antidiscrimination or contract compliance law;
- (2) if information submitted pursuant to Section 46a-68j-32 suggests that a contractor may be in violation of antidiscrimination or contract compliance law; or
- (3) to determine or verify that a contractor is in compliance with antidiscrimination or contract compliance law.

(b) In the event that the commission elects to conduct a field review, the commission shall notify the contractor in writing that a field review shall be conducted. Such notice shall recite the date that the commission intends to meet with the contractor to review its employment policies and procedures. A copy of the notice shall be sent to the awarding agency. If additional meetings are necessary, the commission shall so advise the contractor and shall specify the date or dates of such meetings.

(c) A field review may consist of, but is not limited to, one or more of the following:

(1) a review with the contractor of the contract monitoring report form or other information provided the commission pursuant to Section 46a-68j-32;

(2) a review of personnel records, applications, job descriptions, payroll records and other support data that the commission deems necessary to evaluate the contractor's conformance with antidiscrimination or contract compliance statutes;

(3) an observation of the contractor's work force made by touring the contractor's facility or construction site at a reasonable time and in a reasonable manner;

(4) an interview with persons employed by the contractor to elicit their knowledge of the contractor's employment policies and practices;

(5) contact with community groups in the labor market area to determine whether such organizations are notified of job openings by the contractor;

(6) a review of the contractor's subcontracting policies and practices;

(7) a review of the contractor's efforts to accomplish the goals set out in a letter of commitment signed by the contractor pursuant to Section 46a-68j-36;

(8) where applicable, an evaluation of the contractor's compliance with the Equal Employment Opportunity in Apprenticeship and Training regulations, Sections 46a-68-1 to 46a-68-17, inclusive;

(9) where the contractor is a state agency, an evaluation of the contractor's compliance with the Affirmative Action by State Government regulations, Sections 46a-68-31 to 46a-68-73, inclusive; and/or

(10) a request for additional information concerning the contractor's conformance with antidiscrimination or contract compliance statutes.

(Effective August 23, 1990)

Sec. 46a-68j-35. Conformance review

(a) After all relevant information has been assembled, the commission shall conduct a review to assess the contractor's conformance with antidiscrimination or contract compliance statutes. The commission shall notify the contractor of its findings within sixty (60) days of the date the commission completes its final field review or receives additional information from the contractor pursuant to Section 46a-68j-34, whichever is later. Notice of the commission's assessment shall include the basis for the finding. A copy of the notice shall be sent to the awarding agency by the commission.

(b) When a review indicates that the contractor is not in conformance with antidiscrimination or contract compliance statutes, the commission shall propose specific steps that the contractor must take within specific timetables to correct the deficiencies identified in the review. Such steps may include but are not limited to, the following:

(1) elimination of employment barriers which may have the effect of discriminating against members of protected groups;

(2) development and implementation of a program to enhance employment opportunities for members of protected groups;

(3) affirmative advertising, recruitment and training programs for members of protected groups;

(4) where applicable, the development and implementation of an apprenticeship program pursuant to the Equal Employment Opportunity in Apprenticeship and Training regulations, Sections 46a-68-1 to 46a-68-17, inclusive;

(5) submission of support data to the commission for a specified period of time to ensure that progress is being made in achieving equal employment and program objectives;

(6) restructuring of the contractor's employment and subcontracting policies, patterns and practices; or

(7) establishment of training programs to train and accelerate upward mobility of members of protected groups, when a determination has been made that such persons are under represented in the work force.

(Effective August 23, 1990)

Sec. 46a-68j-36. Letters of commitment; monitoring

(a) A contractor may, within thirty (30) days after notice of the commission's finding is received, accept in writing the commission's proposals to achieve conformance with the law. Acceptance of the commission's proposals shall be made in a letter of commitment in which the contractor shall pledge to make every good faith effort to attain conformance with the law within the timetables set out in the notice. A copy of the letter of commitment shall be sent to the awarding agency by the commission.

(b) If a contractor refuses to adopt or does not adopt the commission's proposals, the commission and contractor may meet and attempt to resolve any outstanding differences. An agreement thus reached shall be reduced to a letter of commitment signed by the contractor and a representative of the commission. Such letter shall pledge the contractor to make every good faith effort to achieve conformance with antidiscrimination and contract compliance statutes within the timetables set out in the letter of commitment. A copy of the letter shall be sent to the awarding agency by the commission.

(c) The commission shall closely monitor a contractor's efforts to achieve the goals within the timetables set out in a letter of commitment.

(Effective August 23, 1990)

Sec. 46a-68j-37. Cooperation with interested persons

The commission shall seek the cooperation of federal, state and local governmental agencies, business, labor and other interested persons to effectuate the purpose of Sections 4a-60, as amended by Section 2 of Public Act 89-253, and 46a-71 (d) of the Connecticut General Statutes.

(Effective August 23, 1990)

Sec. 46a-68j-38. Delegation of authority

To assure effective and efficient implementation and enforcement of Section 4a-60, as amended by Section 2 of Public Act 89-253, and 46a-71 (d) of the Connecticut General Statutes and Sections 46a-68j-21 to 46a-68j-43, inclusive, the commission finds that it is necessary to delegate certain duties and responsibilities to its staff. Accordingly, pursuant to Section 46a-54 (3) of the Connecticut General Statutes, the commission delegates and assigns the following responsibilities and duties:

(1) the staff shall review contract monitoring report forms filed with the commission to determine compliance with antidiscrimination and contract compliance statutes;

(2) the staff shall, after a finding by a presiding officer pursuant to Section 46a-86 of the Connecticut General Statutes that a contractor or subcontractor is not complying with antidiscrimination or contract compliance statutes, make recommendations concerning any other action the commission should undertake to assure compliance;

(3) the staff shall monitor the implementation of letters of commitment to determine the progress achieved by contractors or subcontractors in attaining compliance with antidiscrimination or contract compliance statutes;

(4) the staff shall initiate contact and coordinate activities with contract compliance personnel in accordance with Section 46a-68j-37; and

(5) the executive director of the commission shall supervise staff activities pursuant to this delegation of authority and report to the commission on the activities undertaken, results achieved and problems encountered pursuant to this delegation of authority, and make recommendations for appropriate commission or legislative action where advisable.

(Effective August 23, 1990)

Part V

Enforcement Proceedings

Sec. 46a-68j-39. Complaints

(a) The commission may issue a complaint in accordance with Section 46a-82 (b) of the Connecticut General Statutes if the commission has reason to believe that a person:

(1) has been engaged or is engaged in a discriminatory practice; and/or

(2) subject to contract compliance requirements, is not complying with contract compliance statutes.

(b) Any person claiming to be aggrieved by an alleged discriminatory practice may file a complaint with the commission in accordance with Section 46a-82 (a) of the Connecticut General Statutes.

(Effective August 23, 1990)

Sec. 46a-68j-40. Complaint investigation; hearing; appeal

The provisions of Chapter 814c of the Connecticut General Statutes, as amended; shall govern the processing of complaints alleging a violation of Sections 4a-60, as amended by Section 2 of Public Act 89-253, or 46a-71 (d) of the Connecticut General Statutes and Section 46a-68j-39.

(Effective August 23, 1990)

Sec. 46a-68j-41. Notice of noncompliance

(a) In addition to any other action taken, after a finding by a presiding officer pursuant to Section 46a-86 of the Connecticut General Statutes that a contractor is not complying with antidiscrimination or contract compliance statutes, the commission shall issue a notice of noncompliance. Issuance of a notice of noncompliance shall prevent a contractor from entering into any further contracts with an awarding agency, until such time as the commission determines that the contractor has adopted policies consistent with such statutes.

(b) A notice of noncompliance shall be effective upon issuance by the commission. A copy of the notice shall be sent to the awarding agency and the attorney general.

(c) The commission shall cause the names of all contractors issued a notice of noncompliance to be published in the first regular issue of the Connecticut Law Journal for the months of January, April, July and October, and shall maintain a complete and accurate list of such contractors at all times. All inquiries concerning the compliance or noncompliance of contractors shall be directed to the commission and not the commission on official legal publications. It shall be the responsibility of each awarding agency to consult the Connecticut Law Journal to ascertain whether a potential contractor is eligible to contract with the agency. Failure to consult the Connecticut Law Journal shall be deemed a failure to cooperate with the commission.

(Effective August 23, 1990)

Sec. 46a-68j-42. Rescission of notice of noncompliance

(a) Within fifteen (15) days after a notice of noncompliance is issued, the contractor receiving the notice shall submit a detailed, written statement, under oath, describing the steps it has taken to achieve compliance with antidiscrimination and contract compliance statutes. The commission shall review the verified statement within forty-five (45) days of the date the notice of noncompliance was issued to determine whether the contractor has adopted policies consistent with antidiscrimination and contract compliance statutes, thereby eliminating the conditions giving rise to issuance of the notice.

(b) If the commission determines that the contractor has adopted policies consistent with antidiscrimination and contract compliance statutes, it shall rescind the notice of noncompliance. The commission shall forward a copy of the letter rescinding the notice of noncompliance to the awarding agency and the attorney general.

(c) If the commission determines that the contractor has not adopted policies consistent with antidiscrimination and contract compliance statutes, it shall refuse to rescind the notice of noncompliance. The notice of noncompliance shall remain in effect until such a time as the commission finds, pursuant to subsection (b) of this Section, that the contractor has adopted policies consistent with antidiscrimination and contract compliance statutes. The commission shall forward a copy of the letter refusing to rescind the notice of noncompliance to the awarding agency and the attorney general.

(d) If the commission determines that the contractor has not adopted policies consistent with antidiscrimination and contract compliance statutes, it may allow the contractor an opportunity to submit a supplemental written statement, under oath, describing the additional steps it has taken to achieve compliance with antidiscrimination and contract compliance statutes. The commission may permit a contractor to submit a supplemental verified statement only if all of the following conditions are met:

(1) the commission's earlier determination indicates that the steps required to bring the contractor into compliance with antidiscrimination and contract compliance statutes have been substantially implemented;

(2) the contractor, in its dealings with the commission, has expressed a general willingness to undertake such action as is necessary to bring its employment policies and practices into compliance with antidiscrimination and contract compliance statutes; and

(3) the commission will have adequate time following receipt of the verified supplemental statement to make an informed determination whether the contractor has eliminated the conditions giving rise to issuance of the certificate of noncompliance within the time frames imposed by Section 46a-56 (c) of the Connecticut

General Statutes, as amended by Section 5 of Public Act 89-253. Absent such conditions, the commission shall decline to solicit or accept a verified supplemental statement from a contractor, and the notice of noncompliance shall remain in effect as provided in subsection (c) of this section.

(e) Failure to request rescission of a notice of noncompliance within fifteen (15) days after such notice is issued shall not prevent a contractor from thereafter requesting that the commission rescind the notice of noncompliance. In the event that the contractor fails to submit a verified written statement within fifteen (15) days after a notice of noncompliance is issued, the contractor shall submit, together with a verified written statement, a letter in explanation of the reasons for the delay in achieving compliance with antidiscrimination and contract compliance statutes. The commission shall determine whether the contractor has adopted policies consistent with antidiscrimination and contract compliance statutes within forty-five (45) days of its receipt of the contractor's verified written statement. The provisions of this section shall apply to all statements submitted after the fifteen (15) day period for submission of a verified written statement has expired.

(f) The commission shall closely monitor the contractor's efforts to continue in compliance with antidiscrimination and contract compliance statutes.

(Effective August 23, 1990)

Sec. 46a-68j-43. Notice of adverse finding by presiding officer

(a) In addition to any other action taken, the commission may, following a finding by a presiding officer pursuant to Section 46a-86 of the Connecticut General Statutes that a contractor is not complying with antidiscrimination or contract compliance statutes, notify the awarding agency or other interested persons that:

(1) a contractor is not complying with antidiscrimination or contract compliance statutes; and/or

(2) a state agency has purchased or contracted for supplies, materials, equipment or services contrary to Section 4a-60, as amended by Section 2 of Public Act 89-253, or 46a-71 (d) of the Connecticut General Statutes and that the contract or subcontract is void and of no effect.

(3) appropriate action be taken to enforce a recommendation made by the commission pursuant to Section 46a-56 (c) of the Connecticut General Statutes.

(b) Any notice issued in accordance with subsection (a) of this Section shall include a recommendation that a civil action be brought or not be brought against the administrative head of the awarding agency pursuant to Section 4a-65 of the Connecticut General Statutes to recover the costs of such order or contract.

(c) In accordance with Section 46a-77 of the Connecticut General Statutes, the commission shall request that appropriate action be taken to enforce the commission's recommendation with all necessary speed.

(Effective August 23, 1990)

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**Approval of Contract Compliance Programs by the
Commission on Human Rights and Opportunities**

Sec. 46a-68k-1. Definitions

As used in Sections 46a-68k-1 through 46a-68k-8, inclusive:

(1) "Agency" means each agency, department, board and Commission of the State of Connecticut;

(2) "Commission" means the commission on human rights and opportunities created by Section 46a-52 of the Connecticut General Statutes, as amended by Section 1 of Public Act 89-332;

(3) "Contract compliance program" means a program containing formal written rules for the receipt, evaluation and monitoring of information concerning public works contracts and for enforcing compliance with legal requirements and responsibilities attendant thereto;

(4) "Contractor" means a contractor, as defined in Section 46a-68j-21 (7), for a public works contract; and

(5) "Public works contract" means a contract for public works as defined in Section 46a-68b of the Connecticut General Statutes as amended by Section 1 of Public Act 89-253.

(Effective August 23, 1990)

Sec. 46a-68k-2. Contract compliance programs at least equivalent; criteria for approval of programs

(a) Any contractor who is a party to a public works contract with an agency may be relieved of the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes provided that the commission determines that the contract compliance program of such agency is at least equivalent to the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes.

(b) No contract compliance program shall be approved by the commission unless all of the following criteria are met:

(1) the agency has statutory authority to review, monitor and enforce contracting policies and practices otherwise covered by Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes;

(2) the agency actively and routinely reviews and monitors the policies and practices of contractors, subcontractors, awarding agencies and other concerns under its jurisdiction; and

(3) where the petition pursuant to Section 46a-68k-3 is for reapproval as an approved agency, the agency has established a satisfactory record of performance pursuant to Sections 46a-68k-6 and 46a-68k-7.

(Effective August 23, 1990)

Sec. 46a-68k-3. Petitions for approval

(a) Any agency may petition for approval of its contract compliance program as at least equivalent to the requirements and responsibilities of Sections 4a-60, as

amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes. Petitions for approval shall be addressed to the chairperson of the commission and shall contain the following information:

(1) a detailed statement as to how the agency meets the criteria listed in Section 46a-68k-2 (b);

(2) a detailed organizational statement describing the operation of the contract compliance program, including funding and budget information, the number of employees assigned contract compliance responsibilities and the nature of their duties; and

(3) the name, job title, address and telephone number of the agency representative whom the commission may contact concerning the program.

(b) Approval of a contract compliance program by the commission shall expire on the date set forth in the memorandum of understanding between the commission and the agency pursuant to Section 46a-68k-5. Any agency may petition for reapproval of its contract compliance program at any time.

(Effective August 23, 1990)

Sec. 46a-68k-4. Review of petitions; determination by commission

(a) The commission shall review each petition for approval and shall approve the petition only if the agency meets the criteria contained in Section 46a-68k-2

(b). If the commission determines that the agency meets the criteria contained in Section 46a-68k-2 (b), it shall notify the agency in writing that its contract compliance program has been approved as at least equivalent to the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes. The commission shall approve a petition only upon the affirmative vote of a majority of its members present and voting.

(b) Where it appears from the petition that a contract compliance program does not meet the criteria contained in Section 46a-68k-2 (b), the commission shall deny the petition. The commission shall notify the agency in writing of its decision. The notice shall specify the grounds upon which the denial is based.

(c) An agency whose petition has been denied may request that the commission reconsider its determination. Requests for reconsideration shall be addressed to the chairperson of the commission and shall provide all information and documents necessary to demonstrate that the agency meets the criteria contained in Section 46a-68k-2 (b). The commission shall grant such requests only upon the affirmative vote of a majority of its members present and voting.

(Effective August 23, 1990)

Sec. 46a-68k-5. Memorandum of understanding

(a) Upon approval of a contract compliance program as at least equivalent to the requirements and responsibilities of Section 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes, the commission shall meet with the agency to discuss the terms of the agreement under which the agency shall substitute its own program for that of the commission. The memorandum of understanding shall contain, at a minimum, the following provisions:

- (1) a detailed description of the agency's contract compliance program;
- (2) the length of time for which the commission has approved use of the program;
- (3) an organizational statement containing information on the amount of funds requested or budgeted to operate the program, the number of employees assigned contract compliance responsibilities and the nature of their duties;
- (4) a description of the types of contracts or the names of contractors subject to agency review;
- (5) a statement of what information the agency will report to the commission concerning its contract compliance program and the frequency of such reporting; and
- (6) such other and further terms as is necessary for the effective implementation of the agreement.

(b) A memorandum of understanding shall be signed by the commission and the agency, and shall pledge the parties to make a good faith effort to implement the agreement faithfully and for the best interests of the state.

(c) Failure of the commission and the agency to execute a memorandum of understanding within thirty (30) days of the date that the agency receives notice from the commission approving the program shall result in a forfeiture of the approval. For good cause shown, the commission may grant an extension of time to execute a memorandum of understanding. Extensions of time may be granted only upon certification to the commission from its representatives that an agreement is an immediate, likely outcome of further discussion.

(Effective August 23, 1990)

Sec. 46a-68k-6. Equivalent weight accordance

(a) The commission shall accord equivalent weight to the determinations of an agency approved pursuant to Section 46a-68k-4. If the agency determination was made in full accordance with the terms of the memorandum of understanding between the agency and the commission and all applicable laws and regulations governing the agency's contract compliance program, the commission shall treat the agency's determination as if it were reached by the commission under Sections 46a-68j-21 through 46a-68j-43, inclusive.

(b) The commission may reverse the determination of an approved agency only if an independent review indicates that there is a considerable probability that the conclusion reached by the agency is against the evidence. The commission may review any such determination upon its own motion or upon the application of any person, and may reverse or modify the agency's determination upon an affirmative vote of a majority of its members present and voting.

(c) The provisions of Section 46a-68k-6 (a) notwithstanding, the commission may at any time conduct a review of a contractor who is a party to a public works contract with a state agency. The commission shall notify the agency in writing that it intends to conduct such a review and, upon receipt of the notice, the agency shall suspend further review of the contractor under Section 46a-68k-5 unless and until the commission notifies the agency in writing that the agency's review may continue.

(Effective August 23, 1990)

Sec. 46a-68k-7. Evaluation of approved programs

(a) To assure that agencies maintain standards consistent with Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes, and Sections 46a-68j-21

through 46a-68j-43, inclusive, the commission shall conduct an annual review of each contract compliance program approved pursuant to Section 46a-68k-4. At a minimum, the commission shall evaluate:

- (1) the degree to which an agency's program conforms to the memorandum of understanding;
- (2) the quantity and accuracy of contract compliance reviews;
- (3) the extent to which the agency has successfully implemented proposals to increase the efficiency of its program;
- (4) the overall effectiveness of the contract compliance program; and
- (5) the extent to which the agency has cooperated with the commission in the operation of its contract compliance program.

(b) Each agency shall provide the commission with all information necessary to complete the evaluation of its contract compliance program. Failure to provide the commission with complete and accurate information shall be deemed a failure to cooperate with the commission as required by Section 46a-77 of the Connecticut General Statutes. In addition to any other action taken, the commission may terminate the memorandum of understanding with the agency and revoke its approval of the agency's contract compliance program, as provided in Section 46a-68k-8.

(c) The commission shall report its findings to the agency within ninety (90) days of the date it has received all pertinent information provided pursuant to Section 46a-68k-6 (b). The commission shall include in its report a list of recommendations as to how the agency may improve the effectiveness and efficiency of its contract compliance program, together with proposed timetables for implementation of each recommendation, if any.

(d) If the commission finds that an agency's program is deficient, when measured against the criteria of Section 46a-68k-7 (a), the agency shall confirm in writing that it has accepted the recommendations and timetables proposed by the commission within fifteen (15) days of the date the agency receives the commission's report. If an agency fails or refuses to accept the commission's recommendations and timetables, it shall notify the commissioner in writing within fifteen (15) days of the date the commission's report is received. The agency may propose countermeasures and timetables to correct deficiencies noted in the commission's report. The commission and agency shall meet within ten (10) days of the commission's receipt of the agency's counterproposals to resolve outstanding differences. Any agreement between the commission and agency shall be in writing and shall contain timetables for its implementation. If the commission and agency are unable to agree to mutually acceptable terms, the commission may initiate proceedings to revoke its approval of the agency's contract compliance program, as provided in Section 46a-68k-8.

(Effective August 23, 1990)

Sec. 46a-68k-8. Revocation of approval

(a) The commission, acting upon its own motion or the complaint of any person, may revoke its approval of any contract compliance program made pursuant to Section 46a-68k-4 if:

- (1) a contract compliance program no longer meets the criteria contained in Section 46a-68k-2 (b);
- (2) an agency is in violation of the terms of a memorandum of understanding entered into pursuant to Section 46a-68k-5;
- (3) an agency's performance is found deficient by the commission in accordance with Section 46a-68k-7; or

(4) an agency fails to accept or implement the commission's recommendations issued as part of an annual review conducted under Section 46a-68k-7.

(b) A petition to revoke approval of an approved contract compliance program shall be filed under oath in writing and shall state what subdivision or subdivisions of Section 46a-68k-8 (a) are alleged to have been violated, together with a statement of the facts and circumstances upon which the charged violations are based. The commission shall serve a copy of the petition upon the agency by registered mail within ten (10) days of its vote to initiate revocation proceedings or within ten (10) days of its receipt of a petition; as the case may be.

(c) The agency shall file an answer to the petition within fifteen (15) days of the date it is mailed by the commission. The answer shall contain a detailed response to the allegations of the petition and shall be accompanied by such information as appropriate to rebut the charges.

(d) The commission shall carefully consider the evidence in support of and against the agency. In accordance with Section 46a-54 (9) of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-332, the commission may hold a hearing, if necessary, on the question. If the evidence indicates that the agency's contract compliance program is not at least equivalent to the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes, the commission may revoke its approval of the program by the affirmative vote of a majority of its members present and voting.

(Effective August 23, 1990)