HOUSE DOCKET, NO. FILED ON: 1/14/2009

**HOUSE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**James H. Fagan**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General  
 Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the determination of the lowest eligible and responsible bidder for certain public construction contracts.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

|  |  |
| --- | --- |
| Name: | District/Address: |
| James H. Fagan | 3rd Bristol |

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3185 OF 2007-2008.]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act relative to the determination of the lowest eligible and responsible bidder for certain public construction contracts.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1.  Section 44D of Chapter 149 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (6) and inserting in place thereof the following subsection:—

(6) In determining who is the lowest eligible and responsible bidder as required by paragraph (2) of section forty-four A, the awarding authority shall consider the information submitted by

the bidder in the update statement. The awarding authority may also consider the evaluations of the bidder’s work obtained by or furnished to the division of capital asset management and any information furnished by the bidder in or after the application for certification. Notwithstanding that a contractor may have been certified by the division, an awarding authority, in connection with a particular bid, may review the evaluations of the low bidder’s work to determine whether the evaluations of comparable projects performed by such low bidder establish that the bidder is qualified to perform the work on the building project being bid and may reject the bid if the evaluations do not establish that the bidder is so qualified. Such awarding authority may also reject the bid of a low bidder if the division has obtained or received two or more unsatisfactory project evaluations of building projects of any

type completed by such low bidder within the past five years. If the awarding authority determined that the low bidder is not responsible and eligible, the awarding authority shall reject the bidder and evaluate the next low bidder in accordance with this section. The awarding authority shall give notice of such action to the division of capital asset management. In determining which is the most advantageous offer, the awarding authority shall consider the information submitted by the offeror on the update statement. The awarding authority may also consider the evaluations of the offeror furnished to or obtained by the bidder in or after the application for certification.