

HOUSE No.

The Commonwealth of Massachusetts

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:

James H. Fagan

DISTRICT/ADDRESS:

3rd Bristol

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

The Commonwealth of Massachusetts

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:*

1 SECTION 1. Section 44D of Chapter 149 of the General Laws, as appearing in the 2006 Official Edition, is hereby
2 amended by striking out subsection (6) and inserting in place thereof the following subsection:—
3
4 (6) In determining who is the lowest eligible and responsible bidder as required by paragraph (2) of section forty-
5 four A, the awarding authority shall consider the information submitted by
6 the bidder in the update statement. The awarding authority may also consider the evaluations of the bidder's work
7 obtained by or furnished to the division of capital asset management and any information furnished by the bidder in
8 or after the application for certification. Notwithstanding that a contractor may have been certified by the division,
9 an awarding authority, in connection with a particular bid, may review the evaluations of the low bidder's work to
10 determine whether the evaluations of comparable projects performed by such low bidder establish that the bidder is
11 qualified to perform the work on the building project being bid and may reject the bid if the evaluations do not
12 establish that the bidder is so qualified. Such awarding authority may also reject the bid of a low bidder if the
13 division has obtained or received two or more unsatisfactory project evaluations of building projects of any
14 type completed by such low bidder within the past five years. If the awarding authority determined that the low
15 bidder is not responsible and eligible, the awarding authority shall reject the bidder and evaluate the next low bidder
16 in accordance with this section. The awarding authority shall give notice of such action to the division of capital
17 asset management. In determining which is the most advantageous offer, the awarding authority shall consider the
18 information submitted by the offeror on the update statement. The awarding authority may also consider the
19 evaluations of the offeror furnished to or obtained by the bidder in or after the application for certification.