

# HOUSE . . . . . No. 15

Accompanying the seventh recommendation of the Office of the Inspector General (House, No. 8).  
State Administration and Regulatory Oversight.

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine.  
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### AN ACT RELATIVE TO PUBLIC CONSTRUCTION THRESHOLDS.

*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 44A of chapter 149 of the General Laws as appearing in the 2006 Official Edition, is  
2 hereby amended by striking out subsection (2) and inserting in place thereof the following  
3 subsection:—

4 (2)(A) Every procurement for the construction, reconstruction, installation, demolition,  
5 maintenance or repair of any building by a public agency estimated to cost less than \$5,000 shall  
6 be obtained through the exercise of sound business practices. The public agency shall make and  
7 keep a record of each such procurement. Said record shall at a minimum include the name and  
8 address of the person from whom the services were procured and the price.

9 (B) Every contract for the construction, reconstruction, installation, demolition, maintenance  
10 or repair of any building by a public agency estimated to cost not less than \$5,000 but not more  
11 than \$10,000 shall be awarded to the responsible person to perform the contract at the lowest  
12 written price quotation; provided however that the public agency shall seek written price  
13 quotations from no fewer than 3 persons customarily providing the work for which the contract is  
14 being made available. When seeking written quotations the public agency shall make and keep a  
15 record of the names and addresses of all persons from whom price quotations were sought, the  
16 names of all persons submitting price quotations and the date and amount of each price quotation.  
17 Written price quotations submitted in accordance with this subsection do not require bid deposits.

18 (C) Every contract for the construction, reconstruction, installation, demolition, maintenance  
19 or repair of any building estimated to cost not less than \$10,000 but not more than \$25,000 shall  
20 be awarded to the responsible person offering to perform the contract at the lowest price. The

21 public agency shall make public notification of the contract and shall seek written responses from  
22 persons who customarily perform such work. The public notification shall include a scope of  
23 work statement that defines the work to be performed and provides potential responders with  
24 sufficient information regarding the objectives and requirements of the public agency and the  
25 time period within which the work is to be completed. For purposes of this subsection “public  
26 notification” shall include, but not necessarily be limited to, posting no less than 2 weeks before  
27 the time specified in the notification for the receipt of responses, the contract and scope of work  
28 statement on the website of the public agency, if any, and either on the COMPASS system, so-  
29 called, or in the central register established under section 20A of chapter 9 and in a conspicuous  
30 place in or near the primary office of the public agency. Written price responses submitted in  
31 accordance with this subsection do not require bid deposits.

32 (D) Every contract for the construction, reconstruction, installation, demolition, maintenance  
33 or repair of any building by a public agency estimated to cost more than \$25,000 but not more  
34 than \$100,000 shall be awarded to the lowest responsible and eligible bidder on the basis of  
35 competitive bids publicly opened and read in accordance with the procedure set forth in said  
36 section 39M of said chapter 30. The term "pumping station" as used in this section shall mean a  
37 building or other structure which houses solely pumps and appurtenant electrical and plumbing  
38 fixtures.

39 (E) Every contract for the construction, reconstruction, installation, demolition, maintenance  
40 or repair of any building by a public agency estimated to cost more than \$100,000, except for a  
41 pumping station to be constructed, reconstructed, installed, demolished, maintained or repaired as  
42 an integral part of a sewer construction or water construction project bid under the provisions of  
43 section 39M of chapter 30, shall be awarded to the lowest responsible and eligible general bidder  
44 on the basis of competitive bids in accordance with the procedure set forth in section 44A to 44H  
45 inclusive.

46 (F) When the general court has approved the use of an alternative mode of procurement of  
47 construction for a project pursuant to section 7E of chapter 29, the awarding authority responsible  
48 for procuring construction services for the project shall follow the policies and procedures of this  
49 section and of section 44B to 44H, inclusive, to the extent compatible with the mode of  
50 construction procurement selected.

51 (G) Notwithstanding paragraph (E), a public agency may undertake the procurement of  
52 modular buildings in accordance with section 44E. A public agency may procure site work for  
53 modular buildings, including but not limited to, construction of foundations, installations, and

54 attachment to external utilities, or any portion of site work, either in combination with the  
55 procurement of modular buildings pursuant to section 44E or on the basis of competitive bids  
56 pursuant to paragraph (E). Notwithstanding the paragraph (E), a public agency may procure  
57 energy management services in accordance with section 11C of chapter 25A and regulations  
58 promulgated thereunder.  
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