

HOUSE No. 03030

The Commonwealth of Massachusetts

PRESENTED BY:

Nick Collins

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 Public Bidding on State Contracts.

PETITION OF:

NAME:

Nick Collins

DISTRICT/ADDRESS:

4th Suffolk

HOUSE No. 03030

By Mr. Collins of Boston, a petition (accompanied by bill, House, No. 3030) of Collins relative to the certification of contractors bidding on state contracts Joint Committee on State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act Relative to Public Bidding on State 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 Amend M.G.L. ch. 149, Section 44D1/2(e) to add new subsections (5) and (6) as follows:
- 2 (5) The statement of qualifications shall be signed under pains and penalties of perjury. Any
- 3 general contractor that fails to respond to the RFQ in accordance with the instructions provided
- 4 in the RFQ in any material way shall be disqualified from consideration for prequalification. Any
- 5 general contractor that provides any materially false or misleading information in its statement of
- 6 qualifications shall be disqualified from consideration for prequalification, regardless of whether
- 7 the prequalification committee learns of the false or misleading information prior to making its
- 8 prequalification determinations under this Section. If the awarding authority is notified of
- 9 materially false or misleading information in any general contractor's statement of qualifications
- 10 after qualification by the committee, the awarding authority shall reject the general contractor's
- 11 bid and shall not enter into any contract with the general contractor. If the awarding authority is

12 notified of materially false or misleading information in any general contractor's statement of
13 qualifications after it has entered into a contract with the general contractor, but before
14 substantial work on the project has commenced, the contract shall be deemed void, work on the
15 project shall be stopped immediately, and the awarding authority shall select another general
16 contractor based on the bids submitted or take such action as it may have under this Chapter to
17 replace the contractor. If the awarding authority is notified of materially false or misleading
18 information in any general contractor's statement of qualifications after it has entered into a
19 contract with the general contractor and after substantial work on the project has commenced, the
20 awarding authority shall have discretion to declare the contract void, stop work on the project,
21 and take such action as it may have under this Chapter to replace the contractor. Upon the
22 application of any person, a Superior Court shall enter temporary, preliminary, and permanent
23 injunctive relief as necessary to enforce this subsection.

24 (6) Any prequalification committee or awarding authority that becomes aware of any materially
25 false or misleading information in any general contractor's statement of qualifications at any
26 time shall report the violation to the commissioner of the division of capital asset management
27 and maintenance and to the Attorney General. The division of capital asset management shall
28 debar any general contractor that provides any materially false or misleading information in a
29 statement of qualifications for no less than one year for a first violation and permanently after a
30 second violation. This section is not intended to limit in any way the imposition of any
31 additional civil penalties for any violations, the criminal prosecution of any violations, or the
32 judicial enforcement of this section.

33 Amend the second paragraph of M.G.L. ch. 149, Section 44D1/2(h) to provide as follows:

34 A general contractor's score shall be made available to the general contractor upon request. The
35 prequalification committee shall not consider for prequalification any general contractor that has
36 failed to comply with all the requirements of subsection (e). The decision of the prequalification
37 committee with respect to those general contractors that are qualified for consideration for
38 prequalification under subsection (e) shall be final and shall not be subject to appeal except on
39 grounds of arbitrariness, capriciousness, fraud or collusion. Nothing in this subsection (h) shall
40 be deemed to limit in any way the compliance with or enforcement of subsection (e) by any
41 prequalification committee, awarding authority, agency, or court.

42 Amend M.G.L. ch. 149, Section 44D3/4 by adding at the end of the section the following
43 sections:

44 (k) The statement of qualifications shall be signed under pains and penalties of perjury. Any
45 general contractor that fails to respond to the RFQ in accordance with the instructions provided
46 in the RFQ in any material way shall be disqualified from consideration for prequalification. Any
47 general contractor that provides any materially false or misleading information in its statement of
48 qualifications shall be disqualified from consideration for prequalification, regardless of whether
49 the prequalification committee learns of the false or misleading information prior to making its
50 prequalification determinations under this Section. If the awarding authority is notified of
51 materially false or misleading information in any general contractor's statement of qualifications
52 after qualification by the committee, the awarding authority shall reject the general contractor's
53 bid and shall not enter into any contract with the general contractor. If the awarding authority is
54 notified of materially false or misleading information in any general contractor's statement of
55 qualifications after it has entered into a contract with the general contractor, but before
56 substantial work on the project has commenced, the contract shall be deemed void, work on the

57 project shall be stopped immediately, and the awarding authority shall select another general
58 contractor based on the bids submitted or take such action as it may have under this Chapter to
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61 contract with the general contractor and after substantial work on the project has commenced, the
62 awarding authority shall have discretion to declare the contract void, stop work on the project,
63 and take such action as it may have under this Chapter to replace the contractor. Upon the
64 application of any person, a Superior Court shall enter temporary, preliminary, and permanent
65 injunctive relief as necessary to enforce this subsection.

66 (l) Any prequalification committee or awarding authority that becomes aware of any materially
67 false or misleading information in any general contractor's statement of qualifications at any
68 time shall report the violation to the commissioner of the division of capital asset management
69 and maintenance and to the Attorney General. The division of capital asset management shall
70 debar any general contractor that provides any materially false or misleading information in a
71 statement of qualifications for no less than one year for a first violation and permanently after a
72 second violation. This section is not intended to limit in any way the imposition of any
73 additional civil penalties for any violations, the criminal prosecution of any violations, or the
74 judicial enforcement of this section.

75 Amend Chapter 149A by adding at the end of Section 5 the following sections:

76 (j) The statement of qualifications shall be signed under pains and penalties of perjury. Any
77 general contractor that fails to respond to the RFQ in accordance with the instructions provided
78 in the RFQ in any material way shall be disqualified from consideration for prequalification. Any

79 general contractor that provides any materially false or misleading information in its statement of
80 qualifications shall be disqualified from consideration for prequalification, regardless of whether
81 the prequalification committee learns of the false or misleading information prior to making its
82 prequalification determinations under this Section. If the awarding authority is notified of
83 materially false or misleading information in any general contractor's statement of qualifications
84 after qualification by the committee, the awarding authority shall reject the general contractor's
85 bid and shall not enter into any contract with the general contractor. If the awarding authority is
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89 project shall be stopped immediately, and the awarding authority shall select another general
90 contractor based on the bids submitted or take such action as it may have under this Chapter to
91 replace the contractor. If the awarding authority is notified of materially false or misleading
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93 contract with the general contractor and after substantial work on the project has commenced, the
94 awarding authority shall have discretion to declare the contract void, stop work on the project,
95 and take such action as it may have under this Chapter to replace the contractor. Upon the
96 application of any person, a Superior Court shall enter temporary, preliminary, and permanent
97 injunctive relief as necessary to enforce this subsection.

98 (k) Any prequalification committee or awarding authority that becomes aware of any materially
99 false or misleading information in any general contractor's statement of qualifications at any
100 time shall report the violation to the commissioner of the division of capital asset management
101 and maintenance and to the Attorney General. The division of capital asset management shall

102 debar any general contractor that provides any materially false or misleading information in a
103 statement of qualifications for no less than one year for a first violation and permanently after a
104 second violation. This section is not intended to limit in any way the imposition of any
105 additional civil penalties for any violations, the criminal prosecution of any violations, or the
106 judicial enforcement of this section.