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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - THE OPEN CONTRACTING ACT

Introduced By: Representatives Nunes, and Jacquard

Date Introduced: March 20, 2015

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 37 of the General Laws entitled "PUBLIC PROPERTY AND  
2 WORKS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 25

4 THE OPEN CONTRACTING ACT

5 **37-25-1. Short title.** – This chapter shall be known and may be cited as "The Open  
6 Contracting Act."

7 **37-25-2. Definitions.** – The following words and phrases when used in this chapter shall  
8 have the meanings given to them in this section unless the context clearly indicates otherwise.

9 (1) "Public body" means the state of Rhode Island or any of its political subdivisions, or  
10 an agency or authority of either.

11 (2) "Public works" means the construction, reconstruction, demolition, alteration, or  
12 repair work, other than routine maintenance work, contracted for by a public body.

13 (3) "Responsible bidder" means a person, partnership, or corporation that has the  
14 capability in all respects to fully perform the contract requirements.

15 **37-25-3. Prohibited practices.** – (a) Contract specifications issued by public bodies  
16 soliciting bids on public works projects shall not include any of the following:

17 (1) A requirement that a successful bidder or any of its subcontractors utilize workers:

18 (i) Represented by one or more designated labor organizations; or

19 (ii) Referred by one or more designated labor organizations.

1           (2) A requirement that a successful bidder's existing workforce or any of his or her  
2 subcontractors' workforces affiliate with or pay dues or fees to a labor organization.

3           (3) A requirement that a successful bidder or any of its subcontractors recognize a labor  
4 organization as the exclusive representative of any of its employees on the public works project.

5           (b) Provided, however, nothing in this chapter shall prohibit a successful bidder or any of  
6 its subcontractors from entering into or adhering to agreements with one or more labor  
7 organizations on the same or related projects, provided the agreements are made voluntarily and  
8 without coercion.

9           **37-25-4. Discrimination prohibited.** – It shall be an unlawful practice for a public body  
10 to consider or use as a criterion in its selection process the union or nonunion status of a bidder's  
11 workforce.

12           **37-25-5. Enforcement.** – (a) General rule. A party which is aggrieved by an act  
13 committed by a public body which violates §§ 37-25-3 or 37-25-4 may file an action in the  
14 superior court to enjoin the act.

15           (b) Damages and attorneys' fees. A court of competent jurisdiction may award damages  
16 and shall award reasonable attorneys' fees and costs to the aggrieved party that is successful in an  
17 action filed under subsection (a) of this section.

18           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - THE OPEN CONTRACTING ACT

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1           This act would prohibit contract specifications issued by public bodies from containing  
2 provisions requiring that the bidder for the contract utilize workers represented by a labor  
3 organization.

4           This act would take effect upon passage.

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