

# HOUSE . . . . No. 1250

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## The Commonwealth of Massachusetts

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### REPORT OF THE SPECIAL COMMISSION ESTABLISHED TO INVESTIGATE THE ADVISABILITY OF LICENSING CONTRACTORS AND BUILDERS AND RELATIVE TO CERTAIN MATTERS RELATING TO CONTRACTS FOR AND THE EMPLOYMENT OF PERSONS ON PUBLIC WORKS.

[State Administration.]

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

In accordance with the provisions of chapter 33, Resolves of the year 1933, the Special Unpaid Commission, created by said resolve, herewith submits its report. Chapter 33, Resolves of 1933, follows:

RESOLVE PROVIDING FOR AN INVESTIGATION BY A SPECIAL COMMISSION OF THE ADVISABILITY OF LICENSING CONTRACTORS AND BUILDERS AND RELATIVE TO CERTAIN MATTERS RELATING TO CONTRACTS FOR AND THE EMPLOYMENT OF PERSONS ON PUBLIC WORKS.

*Resolved,* That a special commission, to consist of the attorney general, the commissioner of labor and industries, the commissioner of public safety and the commissioner of public works and three persons to be appointed by the governor, of whom one shall be a contractor, one an architect and one a representative of labor, is hereby established to investigate the subject matter of current senate documents numbered two hundred and sixty-four and two hundred and ninety-four and current house documents numbered one hundred and ninety-nine

and nine hundred and thirty-three, relative to the licensing of contractors and builders and relative to certain matters relating to contracts for and the employment of persons on public works. Any such member other than an appointive member, if he so elects, may designate an officer or employee in his department to serve in his place on said commission. Said commission shall be provided with quarters in the state house, shall hold hearings and may expend for clerical and other expenses, from such amount, not exceeding one hundred dollars, as may be appropriated by the general court, such sums as the governor and council may approve. The commission shall report to the general court the results of its investigation, and its recommendations, if any, together with drafts of legislation necessary to carry said recommendations into effect, by filing the same with the clerk of the house of representatives on or before the first Wednesday of December in the current year. [*Approved June 26, 1933.*]

The first meeting of the Commission was held in Room 472, State House, Boston, on September 6, 1933, at 2.30 P.M. For this service the Governor appointed James E. McLaughlin of Boston, an architect, who was made chairman of the Commission; Ernest A. Johnson, a representative of labor; Thomas D. Russo, contractor.

Acting upon authority given in the resolve, the Attorney General of the Commonwealth designated Miss Sybil H. Holmes, Assistant Attorney General, to represent his department; General Daniel Needham of the Public Safety Department appointed John Plunkett, Chief of Inspections, Department of Public Safety; Frank E. Lyman, Commissioner of Public Works, appointed Herman A. MacDonald, Associate Commissioner; and Edwin S. Smith, Commissioner of Labor and Industries, appointed John P. Meade, Director, Division of Industrial Safety, who was chosen as secretary.

Twelve meetings of the Commission were held, with practically all the members in attendance. In addition, numerous meetings of subcommittees of the Commission were also held. Special invitation was extended by communication to the mayors of the various cities of the Commonwealth, soliciting their co-operation, and a copy of chapter 33 of the Resolves of 1933, indicating the scope of the Commission, was included.

The Commission sought and obtained information and material concerning the subject matter of the resolve from Federal, State and municipal officials, from employers and employees, from representatives of surety companies, labor organizations, and others having contact with both public and private construction projects.

A public hearing was held in Room 460, State House, Boston, on September 20, 1933, at 10 A.M., at which time the proponents presented their views, while the afternoon session was given to those who were in opposition. Representative Horace T. Cahill appeared in favor of House Bill No. 933, and Senator John S. Sullivan was present in behalf of Senate Bills No. 264 and No. 294.

Favoring the general principle to provide suitable legislation that would eliminate harmful practices in the construction of public works projects and give assurance to the public that contractors of integrity and ability would be given preference in bidding for the work, the following addressed the Commission on this occasion:

Leonard C. Wason, representing Aberthaw Company; Andrew A. Casassa, Mayor of Revere; Eugene Larivee, representing Massachusetts State Conference of Journeymen Painters, also the Union Trades Council of Lawrence; G. H. Fisher of Quincy, representing the Master Painters' and Decorators' Association of Massachusetts; Edward E. McGanty, President Massachusetts Roofing Association; Charles A. Earley, roofing contractor; Representative James P. Meehan of Lawrence; Robert J. Watt, representing the Massachusetts State Federation of Labor; William Stanley Parker, Boston Society of Architects; John MacLaren, representing Masons' Union No. 9 of Boston; Dennis Mahoney, Legislative Agent, State Association of Bricklayers and Plasterers; P. G. Keefe, Roofing Workers' Union of Boston; James Souter of Lawrence, Massachusetts, State Association of Plumbers and Steamfitters.

At the afternoon session Mr. Frederick Hoitt, representing the New England Road Builders Association, was heard in opposition to the bills; also Mr. Fred E.

Ellis, Commissioner of Public Works, Melrose, representing the Mayor of Melrose.

The Commission desires especially to publicly express its thanks to the following for the presentation of briefs on the subjects involved or their interviews with the Commission in executive session:

Boston Building Congress, William D. Austin, President; Master Builders Association of Boston, William H. Sayward, Secretary; Surety Underwriters' Association of Massachusetts, Clark B. Bristol, President; Turner Construction Company, Boston, W. H. Nye, Vice-President; New England Road Builders Association, Mr. Frederick Hoitt, Secretary; James B. Parker, Surety Underwriters' Association of Massachusetts; Associated General Contractors of America, Inc., New England Marine Chapter, Boston, W. G. Cheever, President; Engineering Societies of Boston, John Kobrock, President; Boston Society of Architects, Ralph W. Gray, President.

A survey was made of existing legislation in relation to the general subject of the resolve, and correspondence was entered into with the United States Bureau of Labor Statistics at Washington, and appreciation of the Commission is recorded here for the co-operation it received from the Honorable Isadore Lubin, Commissioner of Labor Statistics.

Replies were received from governors in the following States, or department heads to whom the request for information from the Commission was referred: Maine, Rhode Island, New Hampshire, Vermont, Oregon, New York, California, Pennsylvania, Michigan, Tennessee, New Jersey, South Carolina, Idaho, Utah, Nevada and Arizona.

Careful consideration was given to every suggestion made. In the course of its deliberations the Commission found that the customary procedure of bidding and awarding public works contracts has created a situation permitting the use in some instances of unsound and questionable methods, which it appears has not only seriously crippled the construction industry, but has also

brought about an economic loss that is reflected in retarded business recovery and affects directly or indirectly every taxpayer living in the Commonwealth.

The essential features strongly emphasized by those interested as the principal causes responsible for these conditions are:

1. The award of work to contractors of limited experience, financial ability, organization and equipment who take work at prices so low that they find themselves unable to meet payment of wages at the accepted local scale, abandon the project, or leave behind a trail of unpaid bills for labor and materials. This results, usually, on account of the failure by awarding officials to require definite and standard information concerning financial resources, integrity, ability and experience of bidders.

2. Shopping of subcontractors' bids by the general contractor after the award of the contract. This frequently forces a reduction of the original amount submitted by the subcontractor to a point where he is unable to come out whole on the job and pay his labor and material bills.

3. Tendency in the past of some surety companies to bond those bidders who are on the border line financially or not otherwise qualified to do the work, thereby creating an unfortunate situation where public officials are faced with the problem of either awarding a contract to one concerning whose qualifications there is grave doubt, or to some one who is not the lowest bidder.

4. The tendency in the past of some surety companies to discount claims properly payable and filed in accordance with chapters 30 and 149 of the General Laws (Tercentenary edition) in those cases in which responsibility for completing the work or paying the bills for labor and material, used or employed in the work, falls upon the surety.

Taking up specifically and in their order the bills mentioned in the resolve creating this Commission, the following comment is made:

House Bill No. 199, entitled "An Act relating to Certain Contracts made by the Public Works Department

and prohibiting the Employment of Certain Persons on all Public Works," was limited in its scope to work to be done during the year 1933. As the time within which this bill might be effective will soon expire, no recommendations are made in relation thereto.

House Bill No. 933, entitled "A Resolve providing for an Investigation by a Special Commission relative to the Licensing of Contractors and Builders doing Business within the Commonwealth," was urged by its sponsors as a future protection against inferior construction, both on private as well as on public work. It was the consensus of opinion of the members of the Commission, however, that poor or faulty construction can and should be remedied by building codes and not by licensing. Furthermore, the licensing of contractors and builders would require the establishment of a board or bureau to operate the same. The creation of another board or bureau with its attendant increase of initial cost would mean another and unwarranted burden of annually recurring expense, either to the construction industry or to the taxpayers of the Commonwealth. The Commission recommends, one member dissenting, that no bureau for the licensing of contractors and builders be established.

Senate Bills No. 264 and No. 294, entitled, respectively, "An Act providing for Prequalification of Bidders on Contracts for Public Improvements, and requiring Certain Evidences of Fitness to be Furnished," and "An Act to require Certain Evidences of Responsibility of Bidders on Contracts for Public Improvements," have been carefully studied and considered. The general requirements of Senate Bill No. 294 seem to be incorporated in Senate Bill No. 264. Analysis of the provisions of Senate Bill No. 264 leads to the conclusion that the responsibility for investigating the ability, integrity and reliability of any bidder, and the responsibility for verifying the written statement (section 53) called for by said bill, is placed therein with an outside agency, *i. e.*, a surety

(see proposed section 54). A report from such outside agency is a prerequisite to making a bid, and in the opinion of the Commission not only invites possible unfair discrimination, but also gives the surety the right to say who is eligible to bid on public work, thereby limiting the control of the entire field of such activity to a relatively small, private, preferred group. Although the proposed section 55 of said Senate Bill No. 264 provides that the awarding officer must examine all statements and determine whether or not a bidder is qualified, his decision unquestionably would be based on the report of the surety which is supported by a bond and filed with the written statement, thereby making it difficult to dispute. Furthermore, the requirement for legal surety, or a bond, to be filed prior to bidding is not in line with recognized underwriting practices, as it would bind the surety on the contract obligation before it had the benefit of determining the sufficiency of a contractor's bid by comparison with other bids submitted.

The Commission has given serious thought to this complicated problem and is convinced that something should be done to correct the condition complained of and generally recognized as likely to cause further disaster to the construction industry, if continued, and to become a menace to the economic structure of the Commonwealth by delay in the completion of public works and through loss of taxable income which otherwise would be paid on earnings of business conducted under proper conditions and showing a reasonable profit.

To accomplish any beneficial and lasting results there must be concerted effort by all interested persons. The assistance and co-operation of governmental agencies is needed, together with suitable legislation.

The Commission therefore recommends legislation to require: —

1. Each bidder on public work to submit with his proposal cash, a certified check, or a certificate of deposit in an amount equivalent to that set forth in the draft of

proposed legislation which is to accompany this report, which amount shall be forfeited in the event the bidder to whom the contract is awarded fails to execute and deliver the contract as called for in the notice to contractors. Each bidder shall in his bid furnish complete information on a standard form, showing his financial resources, experience, organization and equipment. Any bidder submitting any fraudulent statement therein shall be prohibited from bidding on all public work in this Commonwealth for a period of three years next thereafter.

2. A surety on any bond for a public works project within the confines of the Commonwealth which resorts to chiseling of claims properly filed in accordance with chapters 30 and 149 of the General Laws (Tercentenary edition), and concerning which there is no controversy between the general contractor and the claimant, or fails to pay valid claims within a reasonable time after default on any contract for which it becomes liable by failure of the contractor, shall be prohibited from furnishing bonds on all public works contracts in this Commonwealth for a period of three years next thereafter.

3. All bidders who intend to sublet any part of the work called for under a public works contract shall submit with their proposal a list naming the proposed subcontractors, the type of work to be done by each, and the amount to be paid for the work which may be so sublet.

4. Any contractor to whom a contract is awarded who fails to fulfill his contract, including the payment of all valid claims for labor and material used or employed in the work, shall be prohibited from bidding, either individually or as the member of a partnership, corporation or other organization, on any public works contract for a period of three years next after the time of any such default.

The draft of the proposed legislation follows the suggestion of Senate Bill No. 264 in amending chapter 30 of the General Laws, although it may be advisable to have the foregoing provisions constitute a new chapter

in order to establish complete jurisdiction. This seems necessary to make the proposed legislation effective in state, city, county or town projects.

Draft of legislation attached hereto is made part of this report.

Respectfully submitted,

JAMES E. McLAUGHLIN, *Chairman,*  
THOMAS D. RUSSO,  
ERNEST A. JOHNSON,

*Appointed by the Governor.*

SYBIL H. HOLMES,

*Assistant Attorney General.*

H. A. MacDONALD,

*Associate Commissioner, Public Works Department.*

JOHN H. PLUNKETT,

*Chief of Inspections, Public Safety Department.*

JOHN P. MEADE, *Secretary,*

*Director, Division of Industrial Safety.*

SUPPLEMENTAL REPORT.

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The foregoing report of the Commission has been signed by me, and I am in agreement with all of its provisions excepting that part relating "to the licensing of contractors and builders doing business within the Commonwealth," and submit this supplemental report favoring the licensing of all contractors and builders engaged in the construction industry, and the establishment of a bureau to administer same, and am of the opinion that it will be in the interest and advantage of the Commonwealth and its citizens if legislation is adopted providing for the licensing of all contractors and builders doing business within the Commonwealth.

ERNEST A. JOHNSON.

## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Thirty-Four.

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An Act providing for Qualification of Bidders on Contracts for Public Improvement and requiring Certain Evidences of Fitness to be furnished.

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

1 Chapter thirty of the General Laws is hereby  
2 amended by adding at the end thereof the following  
3 new sections: —

4 *Section 53.* Every contract for the construction,  
5 reconstruction or repair of any public work estimated  
6 to involve a cost of one thousand dollars or more by  
7 the commonwealth, or by any county, city, town,  
8 district, board, commission or other public body,  
9 shall be advertised and let to the lowest responsible  
10 and eligible bidder. No bidder shall be eligible who  
11 fails to furnish all the information and otherwise to  
12 qualify under the provisions of section fifty-five.

13 *Section 54.* Every advertisement for proposals  
14 for work to be furnished as hereinbefore noted shall  
15 state the requirement that all bids must be accom-  
16 panied by cash or a certified check on, or a certificate  
17 of deposit issued by, a responsible bank or trust  
18 company, payable to the commonwealth, county,  
19 city, town, district, board, commission or other  
20 public body, in the name of which the contract for

21 the work advertised to be done is to be executed.  
 22 The minimum amount of such cash, check or certifi-  
 23 cate of deposit shall be in a sum not less than that  
 24 indicated in the following schedule:

AMOUNT OF CASH, CHECK OR CERTIFICATE.	Total Value of Work as Noted in Proposal.
\$250 . . . . .	\$1,000 to \$10,000
500 . . . . .	10,000 to 25,000
1,500 . . . . .	25,000 to 50,000
2,500 . . . . .	50,000 to 100,000
5,000 . . . . .	100,000 to 250,000
7,500 . . . . .	250,000 to 500,000
10,000 . . . . .	500,000 to 1,000,000
15,000 . . . . .	1,000,000 to 2,000,000
20,000 . . . . .	2,000,000 and upward

25 Such cash, checks or certificates, except those of  
 26 the three lowest responsible and eligible bidders,  
 27 shall be returned within five days (Sundays and  
 28 holidays excluded) after the opening of proposals.  
 29 The cash, checks or certificates of the said last men-  
 30 tioned bidders shall be deposited by the proper fiscal  
 31 officer in a special account to be maintained for  
 32 that purpose. Immediately upon the depositing of  
 33 the said cash, certified checks or certificates of  
 34 deposit, the proper fiscal officer shall draw a check  
 35 in favor of each of the said last mentioned bidders,  
 36 in the same amount as the cash, certified check or  
 37 certificate of deposit accompanying the proposal of  
 38 each such bidder, and deliver them to the official or  
 39 officials in charge of awarding the contract. The  
 40 award of any contract referred to in section fifty-  
 41 three shall be made not more than fifteen days  
 42 after the opening of bids. Any such check of the

43 fiscal officer shall be returned, except as hereinafter  
44 provided, upon the execution and delivery of the  
45 contract. In the event the successful bidder fails  
46 to execute the contract in accordance with its  
47 terms, the award shall be made to the next lowest  
48 responsible and eligible bidder. Should any bidder  
49 to whom an award is made refuse or omit to enter  
50 into the contract within ten days after notice of the  
51 award has been mailed to him, or he has been other-  
52 wise notified of the award, the amount so received  
53 from such bidder through his cash, certified check or  
54 certificate of deposit shall be and become the prop-  
55 erty of the said commonwealth, county, city, town,  
56 district, board, commission or other public body as  
57 liquidated damages.

58 *Section 55.* Every bidder on any contract referred  
59 to in section fifty-three hereof shall file with and as  
60 part of his proposal a sworn statement in the follow-  
61 ing form:

61

CONTRACTOR'S STATEMENT.

62 *Massachusetts Statutory Form for Public Work.*

Submitted by ..... {  An Individual  
 A Co-partnership  
 A Corporation

With principal office at .....

Condition at close of business ..... 19...

ASSETS.

Dollars. Cts.

1. Cash: (a) On hand \$ . . . . ., (b) In bank \$ . . . . ., (c) Elsewhere \$ . . . . .
2. Notes receivable:
  - (a) Due within 90 days . . . . .
  - (b) Due after 90 days . . . . .
  - (c) Past due . . . . .
3. Accounts receivable from completed contracts, exclusive of claims not approved for payment . . . . .
4. Sums earned on uncompleted contracts as shown by Engineer's or Architect's estimate . . . . .
  - (a) Amount receivable after deducting retainage . . . . .
  - (b) Retainage to date, due upon completion of contracts . . . . .
5. Accounts receivable from sources other than construction contracts . . . . .
6. Deposits for bids or other guarantees:
  - (a) Recoverable within 90 days . . . . .
  - (b) Recoverable after 90 days . . . . .
7. Interest accrued on loans, securities, etc. . . . .
8. Real estate:
  - (a) Used for business purposes (assessed value) . . . . .
  - (b) Not used for business purposes (assessed value) . . . . .
9. Stocks and bonds:
  - (a) Listed — present market value . . . . .
  - (b) Unlisted — present value . . . . .
10. Materials in stock not included in Item 4:
  - (a) For uncompleted contracts (present value) . . . . .
  - (b) Other materials (present value) . . . . .
11. Equipment, book value . . . . .
12. Furniture and fixtures, book value . . . . .
13. Other assets . . . . .
- Total assets . . . . .

LIABILITIES.

1. Notes payable:
  - (a) To banks regular . . . . .
  - (b) To banks for certified checks . . . . .
  - (c) To others for equipment obligations . . . . .
  - (d) To others exclusive of equipment obligations . . . . .

Dollars. Cts.

- 2. Accounts payable:
  - (a) Not past due . . . . .
  - (b) Past due . . . . .
- 3. Real estate encumbrances . . . . .
- 4. Other liabilities (including obligations to Sub-Contractors) . . . . .
- 5. Reserves . . . . .
- 6. Capital stock paid up:
  - (a) Common . . . . .
  - (b) Common . . . . .
  - (c) Preferred . . . . .
  - (d) Preferred . . . . .
- 7. Surplus (net worth) Earned \$ . . . . . Unearned \$ . . . . .
- Total liabilities . . . . .

CONTINGENT LIABILITIES.

- 1. Liability on notes receivable, discounted or sold . . . . .
- 2. Liability on accounts receivable, pledged, assigned or sold . . . . .
- 3. Liability as bondsman . . . . .
- 4. Liability as guarantor on contracts or on accounts of others . . . . .
- 5. Other contingent liabilities . . . . .
- Total contingent liabilities . . . . .

Further detail of the above items must be furnished on request of the public official.

- 1. Are there any judgments, suits or claims against you? . . . . .
- 2. Are there any liens for labor or materials filed on any of your work anywhere? . . . . .
- 3. Are you having any controversy with anyone over any contract or payment of labor or materials on any contract? . . . . .  
If so, please explain details so that the Bureau may have true facts: . . . . .
- 4. How many years has your organization been in business as a general contractor under your present business name? . . . . .
- 5. How many years' experience in . . . . . construction work has your organization had: (a) As a general Contractor? . . . . .  
(b) As a Sub-Contractor? . . . . .
- 6. What projects has your organization completed?

Contract Amt.	Class of Work.	When Completed.	Name and Address of Owner.
_____	_____	_____	_____
_____	_____	_____	_____

- 7. Have you ever failed to complete any work awarded to you? . . . . .  
If so, where and why? . . . . .
- 8. Has any officer or partner of your organization ever been an officer or partner of some other organization that failed to complete a construction contract? . . . . . If so, state name of individual, other organization and reason therefor. . . . .

- 9. Has any officer or partner of your organization ever failed to complete a construction contract handled in his own name? .....  
If so, state name of individual, name of owner and reason therefor. ....
- 10. In what other lines of business are you financially interested? .....
- 11. Value of work to be done on uncompleted contracts? .....
- 12. For what corporations or individuals have you performed work, and to whom do you refer? .....
- 13. For what cities have you performed work and to whom do you refer? .....
- 14. For what counties have you performed work and to whom do you refer? .....
- 15. For what State Bureaus or Departments have you performed work and to whom do you refer? .....
- 16. Have you ever performed any work for the U. S. Government? .....
- If so, when and to whom do you refer? .....
- 17. What is the construction experience of the principal individuals of your organization?

Individual's Name.	Present Position or Office.	Years of Construction Experience.	Magnitude and Type of Work.	In what Capacity.
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

- 18. In what manner have you inspected this proposed work? .....
- Explain in detail. ....
- 19. Explain your plan or layout for performing the proposed work. ....
- 20. The work, if awarded to you, will have the personal supervision of whom? .....
- 21. From which Sub-Contractors or agents do you expect to require a bond? .....
- 22. What equipment do you own that is available for the proposed work?

Quantity.	Item.	Description, Size, Capacity, etc.	Condition.	Years of Service.	Present Location.
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

- 23. What equipment do you intend to purchase for use on the proposed work, should the contract be awarded to you?

Quantity.	Item.	Description, Size, Capacity, etc.	Approximate Cost.
_____	_____	_____	_____
_____	_____	_____	_____

- 24. How and when will you pay for the equipment to be purchased? .....
- 25. Do you propose to rent any equipment for this work? .....
- If so, state type, quantity and reasons for renting. ....

26. Have you made contracts or received firm offers for all materials within prices used in preparing your proposal? . . . . .  
Do not give name of dealers or manufacturers.

The undersigned hereby declares: that the answers to the foregoing interrogatories are true and is a true statement of the financial condition of the individual, co-partnership or corporation herein first named, as of the date herein first given; and that any depository, vendor or other agency herein named is hereby authorized to supply any information necessary to verify this statement.

Dated at . . . . . this . . . . . day of . . . . . 193 . . . . .

. . . . .  
Name of Organization.

By . . . . .

. . . . .  
Title of Person Signing.

NOTE: A co-partnership must give firm name and signatures of all partners. A corporation must give full corporate name, signature of official and affix corporate seal.

AFFIDAVIT FOR INDIVIDUAL.

STATE OF . . . . . }  
COUNTY OF . . . . . } ss.:

. . . . . being duly sworn, deposes and says that the foregoing financial statement, taken from his books, is a true and accurate statement of his financial condition as of the date thereof and that the answers to the foregoing interrogatories are true.

. . . . .  
(Applicant must also sign here)

Sworn to before me this . . . . . day of . . . . . 19 . . . . .

. . . . .  
Notary Public.

AFFIDAVIT FOR CO-PARTNERSHIP.

STATE OF . . . . . }  
COUNTY OF . . . . . } ss.:

. . . . . being duly sworn, deposes and says that he is a member of the firm of . . . . . ; that he is familiar with the books of the said firm showing its financial condition; that the foregoing financial statement, taken from the books of the said firm, is a true and accurate statement of the financial condition of the said firm as of the date thereof and that the answers to the foregoing interrogatories are true.

. . . . .  
(Members of firm must also sign here)

Sworn to before me this . . . . . day of . . . . . 19 . . . . .

. . . . .  
Notary Public.

## AFFIDAVIT FOR CORPORATION.

STATE OF..... }  
 COUNTY OF..... } ss.:

..... being duly sworn, deposes and says that he is  
 ..... of the ..... the cor-  
 poration described in and which executed the foregoing statement; that he is  
 familiar with the books of the said corporation showing its financial condition;  
 that the foregoing financial statement, taken from the books of the said cor-  
 poration, is a true and accurate statement of the financial condition of said  
 corporation as of the date thereof and that the answers to the foregoing inter-  
 rogatories are true.

.....  
 (Officer must also sign here)

Sworn to before me this ..... day of ..... 19

.....  
 Notary Public.

63 Each such statement shall be made up as of a date  
 64 not more than ninety days prior to the date of the  
 65 proposal which it accompanies. The awarding  
 66 authority shall examine each statement and award  
 67 the contract to the lowest responsible and eligible  
 68 bidder. Such statement shall be retained and filed  
 69 for a period of not less than two years after receipt  
 70 thereof, and shall not be disclosed except to another  
 71 public awarding authority or upon written order of  
 72 the person or persons furnishing the statement, or  
 73 an order of a court of competent jurisdiction.

74 *Section 56.* Any person subscribing to such a  
 75 statement as is referred to in section fifty-five, any  
 76 part of which statement is fraudulent, shall be  
 77 ineligible to bid upon any contract referred to in  
 78 section fifty-three for the period of three years next  
 79 after conviction thereof; and any copartnership,  
 80 corporation, association or other organization, in  
 81 which any such person has an interest other than  
 82 that of an employee, shall also be ineligible to bid  
 83 upon any such contract for the same period of three  
 84 years.

85 *Section 57.* No contract for building construction  
86 within the terms of section fifty-three shall be  
87 awarded to any person, firm, copartnership, corpora-  
88 tion, association or other organization which does  
89 not submit the detailed statement required under  
90 section fifty-five to accompany bids; nor shall any  
91 contract referred to in section fifty-three be awarded  
92 to any person, firm, copartnership, corporation, asso-  
93 ciation or other organization which has not net worth  
94 of at least ten per cent of the amount of the bid and  
95 fifteen per cent of the total value of work to be done  
96 on all uncompleted contracts for building construc-  
97 tion. On all other public work said statement shall  
98 show at least twenty per cent of the amount of the bid  
99 and twenty-five per cent of the total value of work  
100 to be done on all uncompleted contracts. No con-  
101 tract within the terms of section fifty-three shall be  
102 awarded to any person, firm, copartnership, corpora-  
103 tion, association or other organization which has (1)  
104 abandoned any contract for the construction, recon-  
105 struction or repair of any work without legal excuse  
106 within the three years next preceding the date of the  
107 proposal; (2) wilfully and deliberately disregarded or  
108 violated the labor or building laws of the common-  
109 wealth or any political subdivision thereof; (3) failed  
110 to complete any contract for the construction, recon-  
111 struction or repair of any work as required by its  
112 terms within the three years next preceding the date  
113 of the proposal. For the purpose of this section, net  
114 worth shall mean cash on hand, marketable securities,  
115 accounts or notes receivable, and market value of  
116 plant equipment and market value of the equity of  
117 any real estate acquired by the contractor in connec-  
118 tion with his business, minus accounts and notes

119 payable. On all contracts for building construction,  
120 reconstruction or repair thereof the contractor shall  
121 perform, with his own organization and with the  
122 assistance of workmen on his own payroll, work  
123 of a value not less than thirty per cent of the  
124 total value of all work embraced in the contract.  
125 On all other contracts for public works the con-  
126 tractor shall perform, with his own organization  
127 and with the assistance of workmen on his own  
128 payroll, work of a value not less than eighty per  
129 cent of the total value of all work embraced in the  
130 contract.

131 *Section 58.* If the bidder proposes to sublet any  
132 part of the work required under any contract referred  
133 to in section fifty-three, he shall at the time of sub-  
134 mitting his proposal file with the awarding authority  
135 a statement showing the portion of the work which  
136 may be sublet, the price therefor, and the names of  
137 not more than three subcontractors for each of said  
138 portions, and from the names so submitted the  
139 awarding authority shall approve one for each por-  
140 tion of the work which may be sublet, and thereafter  
141 no change in subcontractors or prices shall be made  
142 except with the previous written consent of the  
143 awarding authority. The approval of the names of  
144 the subcontractors submitted with any proposal shall  
145 not constitute a consent on the part of the awarding  
146 authority to the subletting of any other work in any  
147 case in which a contract states that no portion of the  
148 work shall be assigned, without the previous written  
149 consent of the awarding authority.

150 *Section 58A.* BOND. A bond shall be required for  
151 the faithful performance of any contract referred to  
152 in section fifty-three and to pay for all labor per-

153 formed or furnished and for all materials used or  
154 employed in the carrying out of the contract in a  
155 sum not less than one hundred per cent of the  
156 amount of the contract, with surety, approved by  
157 the awarding official.

158 *Section 59.* Upon the expiration of sixty-five days  
159 after the completion of the work required to be done  
160 under any contract referred to in section fifty-three  
161 in which the amount withheld under the terms of  
162 any such contract is insufficient to pay all claims as  
163 filed, any surety named in the bond accompanying  
164 the contract conditioned upon the payment for labor  
165 performed or furnished and for materials used or  
166 employed in the work that makes, causes, allows or  
167 requires, or attempts to make, cause or require, any  
168 unnecessary delay in payment or reduction in amount  
169 of any valid and proper claim for labor performed or  
170 furnished and/or for materials used or employed in  
171 the work, notice of which claim has been filed as  
172 provided in section thirty-nine of this chapter, or as  
173 provided in section twenty-nine of chapter one hun-  
174 dred and forty-nine of the General Laws, concerning  
175 which claim there is no controversy between the  
176 contractor and the claimant, shall not be accepted  
177 as surety on any other contract referred to in said  
178 section fifty-three for the period of three years from  
179 the time it makes, causes, allows or requires, or  
180 attempts to make, cause or require, such a reduction  
181 to be made. Any complaint against a surety for  
182 making, causing, allowing or requiring, or attempt-  
183 ing to make, cause or require, any delay or reduction  
184 as hereinbefore referred to shall be made under oath  
185 to the commissioner of insurance, who shall within  
186 thirty days from the receipt thereof hear the parties

187 and determine whether or not the surety named in  
188 said complaint has made, caused, allowed or required,  
189 or attempted to make, cause or require, any such  
190 delay or reduction. The commissioner shall there-  
191 after file his decision, together with a statement of  
192 his findings of fact, rulings of law and other matters  
193 pursuant to the questions arising before him, a copy  
194 of which decision and statement shall be mailed to  
195 each of the interested parties. Any party in interest  
196 aggrieved by such decision may, within ten days  
197 after notice of the filing of said decision, present  
198 certified copies of the decision and statement accom-  
199 panying the same to the superior court for the county  
200 in which the surety, or one of the sureties, has its  
201 principal place of business in the commonwealth, or  
202 to the superior court for the county of Suffolk,  
203 whereupon the court shall render a decree in accord-  
204 ance therewith and notify the parties. Such decree  
205 shall have the same effect, and all proceedings in  
206 relation thereto shall thereafter be the same, as  
207 though rendered in a suit duly heard and determined  
208 by said court, except that there shall be no appeal  
209 therefrom upon questions of fact, and except that  
210 there shall be no appeal from a decree based upon a  
211 decision which has not been presented to the court  
212 within ten days after the notice of the filing thereof  
213 by the commissioner. A record of any and all final  
214 decisions rendered under this section shall be kept  
215 by the commissioner of insurance, and a list of any  
216 and all sureties against whom a final determination  
217 or decision is rendered hereunder shall be conspicu-  
218 ously posted in the office of the commissioner of  
219 insurance for the term of three years next after the  
220 date of said final determination or decision.

221 *Section 59A.* No action for damages out of any  
222 court of competent jurisdiction shall be against any  
223 state official, or against any official of any civil divi-  
224 sion of the commonwealth, because of any action  
225 taken by virtue of the provisions set forth in sections  
226 fifty-three to sixty-four, inclusive.

227 *Section 60.* The words "public officer," "public  
228 official," "awarding official," shall include any and  
229 every public officer, commission, board, committee,  
230 department or other public representative of the  
231 commonwealth of Massachusetts or of any county,  
232 city, town, district or other public body charged by  
233 law with the duty of either receiving bids or award-  
234 ing contracts for the construction of any public  
235 works.

236 *Section 61.* The words "person or persons,"  
237 "bidder or bidders," as used herein shall mean and  
238 include any individual, copartnership, association,  
239 corporation or joint stock company, their lessees,  
240 trustees or receivers, appointed by any court what-  
241 soever. The word "surety" as used herein shall  
242 mean and include any corporate suretyship or any  
243 other legal surety.

244 *Section 62.* If any section, subsection, sentence,  
245 clause or phrase of sections fifty-three to sixty-four,  
246 inclusive, is for any reason held to be unconstitu-  
247 tional, such decision shall not affect the validity of  
248 the remaining portions of this act. The legislature  
249 hereby declares that it would have passed each sec-  
250 tion, subsection, sentence, clause and phrase thereof,  
251 irrespective of the fact that any one or more sections,  
252 subsections, sentences, clauses or phrases be declared  
253 unconstitutional.

254 *Section 63.* The provisions of sections fifty-three  
255 to sixty-five, inclusive, shall not apply to architects,  
256 consulting engineers or landscape architects.

257 *Section 64.* All acts or parts of acts inconsistent  
258 with the provisions of this act are hereby repealed.