

HOUSE No. 1902

By Mr. McInerney of Boston, petition of Timothy J. McInerney and another relative to the construction, reconstruction, alteration, remodelling or repair of certain public works by the Commonwealth or political subdivisions thereof. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Two.

AN ACT RELATIVE TO THE CONSTRUCTION, RECONSTRUCTION, ALTERATION, REMODELLING OR REPAIR OF CERTAIN PUBLIC WORKS BY THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF.

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 44A of chapter 149 of the
2 General Laws, as amended by chapter 480 of the
3 acts of 1939, and chapter 699 of the acts of 1941, is
4 further amended by adding the words:— and who
5 is able to furnish labor that can work in harmony
6 with all other elements of labor employed on the
7 work or to be employed on the work by other con-
8 tractors and sub-contractors, so as to read as follows:
9 — *Section 44A.* Every contract for the construction,
10 reconstruction, alteration, remodelling or repair of
11 any public building by the commonwealth, or by
12 any county, city, town, district, board, commission

13 or other public body and estimated to cost more
14 than five thousand dollars in the case of the common-
15 wealth, and more than one thousand dollars in the
16 case of any county, city, town, district, board, com-
17 mission or other public body, shall be awarded on
18 the basis of competitive bids to the lowest responsible
19 and eligible bidder. The term "lowest responsible
20 and eligible bidder", as used herein and in sections
21 forty-four B to forty-four D, inclusive, shall mean
22 the bidder whose bid is the lowest of those bidders
23 possessing the skill, ability and integrity necessary
24 to the faithful performance of the work, and who is
25 able to furnish labor that can work in harmony with
26 all other elements of labor employed on the work
27 or to be employed on the work by other contractors
28 and sub-contractors, in case no substitution of sub-
29 contracts is made in accordance with section forty-
30 four C, or whose original or adjusted bid is the lowest
31 of such bidders in the event of such substitution or
32 substitutions. Essential information in regard to
33 such qualifications shall be submitted in such form
34 as the awarding authority may require. The awarding
35 authority shall reserve the right to reject any or all
36 bids, if it be in the public interest to do so.

1 SECTION 2. Section 44C of said chapter 149, as
2 amended by chapter 480 of the acts of 1939, is hereby
3 further amended by striking out subsection A and
4 inserting in place thereof the following:—

5 (A) With respect to each proposal subject to sec-
6 tion forty-four B the following procedure shall prevail
7 and all bidders shall be notified to that effect:—

8 1. Bids from general contractors shall be for the

9 complete project as specified, and shall include the
10 names of all sub-contractors classified by trades as
11 to the work the sub-contractors are to perform speci-
12 fied in the proposal form, the general contractor shall
13 be selected on the basis of such bid.

14 2. Each bid shall be divided into two items:—

15 Item 1, covering the work of the general contractor,
16 being all work not covered in Item two.

17 Item 2, covering the work of all sub-contractors
18 and the estimates therefor of work the sub-contractors
19 are to perform as classified in the proposal form for
20 general contractors attached thereto.

21 (B) All sub-contractors who are classified in the
22 proposal form shall deliver or mail to the awarding
23 authority record copies of all bids sent by them to the
24 general contractor. All such bids shall be in sealed
25 envelopes, plainly marked on the outside with the
26 sub-contractor's name, and shall also have marked
27 on the outside the name or names of bidders they
28 include in their bids for any portion of the work,
29 involving labor and materials. All such bids shall
30 be in the possession of the awarding authority, and
31 delivered or mailed to the general contractor, by twelve
32 o'clock noon, at least two days before the date for
33 receipt of general contract proposals. The date and
34 time limit for receipt of such bids shall be stated in
35 each section of the specifications. No recorded sub-
36 bids shall be opened by the awarding authorities
37 until after the selection of the general contractor.

38 No sub-bids shall be considered in the final selection
39 of sub-bidders, as hereinafter described, except those
40 filed with the awarding authority as above provided.

41 Each sub-bidder shall endorse the copy of his bid

42 filed with the awarding authority as follows: — “The
43 above proposal is being sent to the following general
44 bidders: —

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45 The proposal may not be used by any other general
46 contractor without the consent of the undersigned,”
47 and sign such copy.

1 SECTION 3. Said chapter 149 is hereby further
2 amended by inserting after section 44D, inserted
3 by chapter 480 of the acts of 1939, the following new
4 section: —

5 *Section 44E.* Any person who awards any work,
6 or permits any work to be performed, on any project
7 covered by section forty-four A in a manner other
8 than as required by sections forty-four A, forty-
9 four B and forty-four C shall be punished by a fine
10 of not more than five hundred dollars for the first
11 offence, and no more than one thousand dollars for
12 each subsequent offence.