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By Mr. Mahan of Leominster (by request), petition of the Associated General Contractors of Massachusetts, Inc., for regulating further the awarding of contracts for public building projects by competitive bidding. State Administration.

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## The Commonwealth of Massachusetts

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

### AN ACT FURTHER REGULATING THE AWARD OF CONTRACTS FOR PUBLIC BUILDING PROJECTS BY COMPETITIVE BIDDING.

*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 44B of chapter 149 of the General Laws,  
2 as amended, is hereby further amended by striking out the  
3 second sentence of paragraph (3), as appearing in section 1 of  
4 chapter 679 of the acts of 1956, and inserting in place thereof  
5 the following sentence:— The bid deposits of sub-bidders not  
6 returned pursuant to the provisions of the preceding sentence  
7 shall be returned within five days, Saturdays, Sundays and legal  
8 holidays excluded, after the execution of the general contract;  
9 except that, if a selected sub-bidder fails to perform his agree-  
10 ment to execute a sub-contract with the general bidder selected  
11 as the general contractor contingent upon the execution of the  
12 general contract, and, if requested so to do by such general  
13 bidder, to furnish a performance bond and a labor and materials  
14 or payment bond as stated in his sub-bid in accordance with  
15 section forty-four G, the bid deposit of such sub-bidder shall  
16 become and be the property of the commonwealth or the govern-  
17 mental unit thereof to which it is payable, as liquidated damages;  
18 provided, that in case of death, disability or other unforeseen  
19 circumstances affecting any such sub-bidder, his bid deposit  
20 may be returned to him.

1 SECTION 2. Section 44G of chapter 149 of the General Laws,  
2 as amended, is hereby amended by striking out paragraph D

3 of the form for sub-bid contained therein, as appearing in sec-  
4 tion 1 of chapter 679 of the acts of 1956, and inserting in place  
5 thereof the following paragraph: —

6 D. The undersigned agrees that, if he is selected as a sub-  
7 bidder, he will within five days, Saturdays, Sundays and legal  
8 holidays excluded, after notice of his selection, execute with the  
9 general bidder selected as the general contractor a sub-contract  
10 in accordance with the terms of this sub-bid and contingent  
11 upon the execution of the general contract, and, if requested so  
12 to do by such general bidder who shall pay the premiums therefor,  
13 furnish a performance bond and also a labor and materials or  
14 payment bond, each of a surety company qualified to do business  
15 under the laws of the commonwealth and satisfactory to such  
16 general bidder and each in the full sum of the sub-contract price.

1 SECTION 3. Section 44I of chapter 149 of the General Laws,  
2 as amended, is hereby amended by striking out paragraph (3),  
3 as appearing in section 1 of chapter 679 of the acts of 1956, and  
4 inserting in place thereof the following paragraph: —

5 (3) If a selected sub-bidder fails, within five days, Saturdays,  
6 Sundays and legal holidays excluded, after notice of selection  
7 pursuant to paragraph (4), to perform his agreement to execute  
8 a sub-contract with the general bidder selected as the general  
9 contractor contingent upon the execution of the general contract,  
10 and, if requested so to do by such general bidder, to furnish a  
11 performance bond and a labor and materials or payment bond  
12 as stated in his sub-bid in accordance with section forty-four G,  
13 such general bidder and the awarding authority shall select,  
14 from the other sub-bids duly filed with the awarding authority  
15 for such sub-trade and not rejected under section forty-four H,  
16 a responsible and eligible sub-bidder at the amount named in  
17 his sub-bid as so filed; and the contract price shall be adjusted  
18 by the difference between the amount of such sub-bid and the  
19 amount of the sub-bid of the delinquent sub-bidder.