

HOUSE No. 2100

By Mr. Gayron of Lynn, petition of T. Harold Gayron that certain contracts awarded by cities, towns or districts be awarded to the lowest responsible and eligible bidder. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Nine.

AN ACT PROVIDING THAT CERTAIN CONTRACTS AWARDED BY CITIES, TOWNS OR DISTRICTS SHALL BE AWARDED TO THE LOWEST RESPONSIBLE AND ELIGIBLE BIDDER.

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 40 of the General Laws is hereby amended by
2 striking out section 4B, as most recently amended by section
3 1 of chapter 79 of the acts of 1967, and inserting in place
4 thereof the following section:—

5 *Section 4B.* (a) Every contract for the purchase of equip-
6 ment, supplies or materials by a city, town or district, the
7 actual or estimated cost of which amounts to two thousand
8 dollars or more, except in cases of special emergency involv-
9 ing the health or safety of the people or their property, shall
10 be awarded to the lowest responsible and eligible bidder on
11 the basis of competitive bids publicly opened and read by
12 such awarding authority forthwith upon expiration of the
13 time for the filing thereof; provided, however, that such
14 awarding authority may reject any and all bids, if it is in the
15 public interest so to do; and provided, further, that the
16 reason for such rejection is stated in writing in the public
17 records of the awarding authority and promptly given in
18 writing by such awarding authority to anyone making a
19 written request therefor. Competitive bids shall be invited by
20 advertisement in at least one newspaper published in the city,

21 town or district, or, if there is no such newspaper, in a
22 newspaper published in the county, such publication to be at
23 least one week before the time specified for the opening of
24 said bids. Such advertisement shall state the time and place
25 for the opening of the bids in answer to said advertisement.
26 All such bids shall be opened in public. No bill or contract
27 shall be split or divided for the purpose of evading any
28 provisions of this section.

29 (b) Specifications for such contracts shall be written to
30 provide for full competition for each item of material to be
31 furnished under the contract; except, however, that said
32 specifications may be otherwise written for sound reasons in
33 the public interest stated in writing in the public records of
34 the awarding authority or promptly given in writing by the
35 awarding authority to anyone making a written request
36 therefor, in either instance such writing to be prepared after
37 reasonable investigation. Every such contract shall provide
38 that an item equal to that named or described in the said
39 specifications may be furnished; and an item shall be con-
40 sidered equal to the item so named or described if (1) it is at
41 least equal in quality, durability, appearance, strength and
42 design, (2) it will perform at least equally the function
43 imposed by the general design for the public work being
44 contracted for or the material being purchased, and (3) it
45 conforms substantially, even with deviations, to the detailed
46 requirements for the item in the said specifications. For each
47 item of material the specifications shall provide for either a
48 minimum of three named brands of material or a description
49 of material which can be met by a minimum of three
50 manufacturers or producers, and for the equal of any one of
51 said named or described materials.

52 (c) Materials purchased by any city, town or district,
53 under specifications of the department of public works, and at
54 prices established by said department of public works, pur-
55 suant to advertising and bidding for such purpose, in connec-
56 tion with work to be performed under the provisions of
57 chapter eighty-one or chapter ninety, shall not be subject to
58 the requirements of this section.