

# HOUSE . . . . . No. 3185

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By Mr. Fagan of Taunton, petition of James H. Fagan relative to the determination of the lowest eligible and responsible bidder for certain public construction contracts. State Administration and Regulatory Oversight.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Seven.

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AN ACT RELATIVE TO THE DETERMINATION OF THE LOWEST ELIGIBLE AND RESPONSIBLE BIDDER FOR CERTAIN PUBLIC CONSTRUCTION CONTRACTS.

*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 44D of Chapter 149 of the General Laws, as appearing  
2 in the 2004 Official Edition, is hereby amended by striking out  
3 subsection (6) and inserting in place thereof the following subsec-  
4 tion:—  
5 (6) In determining who is the lowest eligible and responsible  
6 bidder as required by paragraph (2) of section forty-four A, the  
7 awarding authority shall consider the information submitted by  
8 the bidder in the update statement. The awarding authority may  
9 also consider the evaluations of the bidder's work obtained by or  
10 furnished to the division of capital asset management and any  
11 information furnished by the bidder in or after the application for  
12 certification. Notwithstanding that a contractor may have been  
13 certified by the division, an awarding authority, in connection  
14 with a particular bid, may review the evaluations of the low bid-  
15 der's work to determine whether the evaluations of comparable  
16 projects performed by such low bidder establish that the bidder is  
17 qualified to perform the work on the building project being bid  
18 and may reject the bid if the evaluations do not establish that the  
19 bidder is so qualified. Such awarding authority may also reject the  
20 bid of a low bidder if the division has obtained or received two or  
21 more unsatisfactory project evaluations of building projects of any

22 type completed by such low bidder within the past five years. If  
23 the awarding authority determined that the low bidder is not  
24 responsible and eligible, the awarding authority shall reject the  
25 bidder and evaluate the next low bidder in accordance with this  
26 section. The awarding authority shall give notice of such action to  
27 the division of capital asset management.

28 In determining which is the most advantageous offer, the  
29 awarding authority shall consider the information submitted by  
30 the offeror on the update statement. The awarding authority may  
31 also consider the evaluations of the offeror furnished to or  
32 obtained by the bidder in or after the application for certification.