

HOUSE No. 2979

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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 1. Section 44D of Chapter 149 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out subsection (6) and inserting in place thereof
3 the following subsection:—

4 (6) In determining who is the lowest eligible and responsible bidder as required by
5 paragraph (2) of section forty-four A, the awarding authority shall consider the information
6 submitted by

7 the bidder in the update statement. The awarding authority may also consider the
8 evaluations of the bidder’s work obtained by or furnished to the division of capital asset
9 management and any information furnished by the bidder in or after the application for
10 certification. Notwithstanding that a contractor may have been certified by the division, an
11 awarding authority, in connection with a particular bid, may review the evaluations of the low
12 bidder’s work to determine whether the evaluations of comparable projects performed by such
13 low bidder establish that the bidder is qualified to perform the work on the building project being

14 bid and may reject the bid if the evaluations do not establish that the bidder is so qualified. Such
15 awarding authority may also reject the bid of a low bidder if the division has obtained or
16 received two or more unsatisfactory project evaluations of building projects of any
17 type completed by such low bidder within the past five years. If the awarding authority
18 determined that the low bidder is not responsible and eligible, the awarding authority shall reject
19 the bidder and evaluate the next low bidder in accordance with this section. The awarding
20 authority shall give notice of such action to the division of capital asset management. In
21 determining which is the most advantageous offer, the awarding authority shall consider the
22 information submitted by the offeror on the update statement. The awarding authority may also
23 consider the evaluations of the offeror furnished to or obtained by the bidder in or after the
24 application for certification.