

SENATE No. 1391

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Timely Decisions by Awarding Authorities..

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 39P of Chapter 30 of the General Laws is hereby deleted and replaced
2 with the following new section:

3 Section 39P. Every contract subject to section thirty-nine M of this chapter or section
4 forty-four A of chapter one hundred forty-nine which requires the awarding authority, any
5 official, its architect or engineer to make a decision on interpretation of the specifications,
6 approval of equipment, material or any other approval, or progress of the work, shall require that
7 the decision be made promptly and, in any event, no later than fifteen days after the written
8 submission for decision; but if such decision requires extended investigation and study, the
9 awarding authority, the official, architect or engineer shall, within said fifteen days after the
10 receipt of the submission, give the party making the submission written notice of the reasons
11 why the decision cannot be made within the fifteen day period and the date by which the
12 decision will be made. The awarding authority shall designate an employee to be responsible for
13 addressing inquiries from aggrieved contractors regarding the status of such written submissions
14 for decision and said designee shall, upon written request, certify that all reasonable steps have

15 been taken by the awarding authority to expedite the decision and/or resolve the problem(s)
16 which is (are) delaying the work. Said certification shall be provided in writing within five
17 business days of receiving such written request from an aggrieved contractor. The awarding
18 authority also shall implement a reporting system which shall track such written submissions for
19 decision and the awarding authority's decision(s) thereon. The reporting system shall include the
20 date each written submission for decision was submitted, the date such decision was made and
21 was provided to the party submitting said written submission for decision, and the specific issue
22 being addressed by the decision. The reporting system shall also track the awarding authority's
23 written notice(s) providing reasons why a decision has not been made within the required fifteen
24 days and shall provide the final date such decision was made and provided to the party
25 submitting said written submission for decision. The awarding authority shall submit the reports
26 pursuant to this section on a quarterly basis, as well as a fiscal year end report not later than
27 November 1 of each year, to the clerks of the senate and house of representatives, the chairs of
28 the house and senate committees on ways and means, the senate and house chairs of the joint
29 committees on transportation and state administration and regulatory oversight, and the Inspector
30 General. Said Inspector General shall, pursuant to the powers granted by Chapter 12A, §9, make
31 any investigations, audits or reports regarding the information provided by said awarding
32 authorities as he or she deems necessary.