

# HOUSE . . . . . No. 3030

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*Nick Collins*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

**An Act Relative to Public Bidding on State Contracts.**

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Nick Collins</i>	<i>4th Suffolk</i>	<i>1/21/2011</i>

# HOUSE . . . . . No. 3030

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By Mr. Collins of Boston, a petition (accompanied by bill, House, No. 3030) of Nick Collins relative to the certification of contractors bidding on state contracts. State Administration and Regulatory Oversight.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act Relative to Public Bidding on State 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           Amend M.G.L. ch. 149, Section 44D1/2(e) to add new subsections (5) and (6) as follows:

2           (5) The statement of qualifications shall be signed under pains and penalties of perjury.

3   Any general contractor that fails to respond to the RFQ in accordance with the instructions  
4   provided in the RFQ in any material way shall be disqualified from consideration for  
5   prequalification. Any general contractor that provides any materially false or misleading  
6   information in its statement of qualifications shall be disqualified from consideration for  
7   prequalification, regardless of whether the prequalification committee learns of the false or  
8   misleading information prior to making its prequalification determinations under this Section. If  
9   the awarding authority is notified of materially false or misleading information in any general  
10   contractor's statement of qualifications after qualification by the committee, the awarding  
11   authority shall reject the general contractor's bid and shall not enter into any contract with the  
12   general contractor. If the awarding authority is notified of materially false or misleading  
13   information in any general contractor's statement of qualifications after it has entered into a

contract with the general contractor, but before substantial work on the project has commenced, the contract shall be deemed void, work on the project shall be stopped immediately, and the awarding authority shall select another general contractor based on the bids submitted or take such action as it may have under this Chapter to replace the contractor. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after it has entered into a contract with the general contractor and after substantial work on the project has commenced, the awarding authority shall have discretion to declare the contract void, stop work on the project, and take such action as it may have under this Chapter to replace the contractor. Upon the application of any person, a Superior Court shall enter temporary, preliminary, and permanent injunctive relief as necessary to enforce this subsection.

(6) Any prequalification committee or awarding authority that becomes aware of any materially false or misleading information in any general contractor's statement of qualifications at any time shall report the violation to the commissioner of the division of capital asset management and maintenance and to the Attorney General. The division of capital asset management shall debar any general contractor that provides any materially false or misleading information in a statement of qualifications for no less than one year for a first violation and permanently after a second violation. This section is not intended to limit in any way the imposition of any additional civil penalties for any violations, the criminal prosecution of any violations, or the judicial enforcement of this section.

Amend the second paragraph of M.G.L. ch. 149, Section 44D1/2(h) to provide as follows:

A general contractor's score shall be made available to the general contractor upon request. The prequalification committee shall not consider for prequalification any general contractor that has failed to comply with all the requirements of subsection (e). The decision of the prequalification committee with respect to those general contractors that are qualified for consideration for prequalification under subsection (e) shall be final and shall not be subject to appeal except on grounds of arbitrariness, capriciousness, fraud or collusion. Nothing in this subsection (h) shall be deemed to limit in any way the compliance with or enforcement of subsection (e) by any prequalification committee, awarding authority, agency, or court.

Amend M.G.L. ch. 149, Section 44D3/4 by adding at the end of the section the following sections:

(k) The statement of qualifications shall be signed under pains and penalties of perjury. Any general contractor that fails to respond to the RFQ in accordance with the instructions provided in the RFQ in any material way shall be disqualified from consideration for prequalification. Any general contractor that provides any materially false or misleading information in its statement of qualifications shall be disqualified from consideration for prequalification, regardless of whether the prequalification committee learns of the false or misleading information prior to making its prequalification determinations under this Section. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after qualification by the committee, the awarding authority shall reject the general contractor's bid and shall not enter into any contract with the general contractor. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after it has entered into a contract with the general contractor, but before substantial work on the project has commenced,

the contract shall be deemed void, work on the project shall be stopped immediately, and the awarding authority shall select another general contractor based on the bids submitted or take such action as it may have under this Chapter to replace the contractor. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after it has entered into a contract with the general contractor and after substantial work on the project has commenced, the awarding authority shall have discretion to declare the contract void, stop work on the project, and take such action as it may have under this Chapter to replace the contractor. Upon the application of any person, a Superior Court shall enter temporary, preliminary, and permanent injunctive relief as necessary to enforce this subsection.

(l) Any prequalification committee or awarding authority that becomes aware of any materially false or misleading information in any general contractor's statement of qualifications at any time shall report the violation to the commissioner of the division of capital asset management and maintenance and to the Attorney General. The division of capital asset management shall debar any general contractor that provides any materially false or misleading information in a statement of qualifications for no less than one year for a first violation and permanently after a second violation. This section is not intended to limit in any way the imposition of any additional civil penalties for any violations, the criminal prosecution of any violations, or the judicial enforcement of this section.

Amend Chapter 149A by adding at the end of Section 5 the following sections:

(j) The statement of qualifications shall be signed under pains and penalties of perjury. Any general contractor that fails to respond to the RFQ in accordance with the instructions provided in the RFQ in any material way shall be disqualified from consideration for

prequalification. Any general contractor that provides any materially false or misleading information in its statement of qualifications shall be disqualified from consideration for prequalification, regardless of whether the prequalification committee learns of the false or misleading information prior to making its prequalification determinations under this Section. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after qualification by the committee, the awarding authority shall reject the general contractor's bid and shall not enter into any contract with the general contractor. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after it has entered into a contract with the general contractor, but before substantial work on the project has commenced, the contract shall be deemed void, work on the project shall be stopped immediately, and the awarding authority shall select another general contractor based on the bids submitted or take such action as it may have under this Chapter to replace the contractor. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after it has entered into a contract with the general contractor and after substantial work on the project has commenced, the awarding authority shall have discretion to declare the contract void, stop work on the project, and take such action as it may have under this Chapter to replace the contractor. Upon the application of any person, a Superior Court shall enter temporary, preliminary, and permanent injunctive relief as necessary to enforce this subsection.

(k) Any prequalification committee or awarding authority that becomes aware of any materially false or misleading information in any general contractor's statement of qualifications at any time shall report the violation to the commissioner of the division of capital asset management and maintenance and to the Attorney General. The division of capital asset

103 management shall debar any general contractor that provides any materially false or misleading  
104 information in a statement of qualifications for no less than one year for a first violation and  
105 permanently after a second violation. This section is not intended to limit in any way the  
106 imposition of any additional civil penalties for any violations, the criminal prosecution of any  
107 violations, or the judicial enforcement of this section.