

# SENATE . . . . . No. 1487

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Jennifer L. Flanagan*

*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 timely decisions by awarding authorities.

PETITION OF:

NAME:

*Jennifer L. Flanagan*  
*Thomas J. Calter*

DISTRICT/ADDRESS:

*Worcester and Middlesex*  
*12th Plymouth*

# SENATE . . . . . No. 1487

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By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 1487) of Jennifer L. Flanagan and Thomas J. Calter for legislation relative to timely decisions by awarding authorities. State Administration and Regulatory Oversight.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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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. Chapter 30 of the General Laws is hereby amended by striking out section  
2   39P and inserting in place thereof the following section:-

3           Section 39P. (a) Every contract subject to section 39M or section 44A of chapter 149  
4   which requires the awarding authority, any official, its architect or engineer to make a decision  
5   on interpretation of the specifications, approval of equipment, material or any other approval, or  
6   progress of the work, shall require that the decision be made promptly and, in any event, not later  
7   than 15 days after the written submission for decision? but if such decision requires extended  
8   investigation and study, the awarding authority, the official, architect or engineer shall, within  
9   said 15 days after the receipt of the submission, give the party making the submission written  
10   notice of the reasons why the decision cannot be made within the 15 day period and the date by  
11   which the decision shall be made. The awarding authority shall designate 1 or more employees to  
12   address inquiries from contractors regarding the status of such written submissions for decision,  
13   and the employee or employees shall, upon written request, certify that the awarding authority  
14   has taken all reasonable steps to expedite the decision. Such certification shall be provided in  
15   writing within 5 business days of receiving such written request from a contractor.

16           (b) The awarding authority shall implement a reporting system which shall track written  
17   submissions for decision and the awarding authority's responses thereto. The reporting system  
18   shall include, but not be limited to: the date each written submission for decision was submitted  
19   to the awarding authority; the date that a decision was made by the awarding authority; the date  
20   that the decision was provided to the party submitting the written submission for decision; the  
21   issue being addressed by the decision; and any approval or concurrence required from a federal

22 agency, the commonwealth or any political subdivision thereof. Any failure to make a decision  
23 within 15 days of a written submission shall be included in the reporting system, the reason for  
24 failure to timely respond, the final date a decision was made and the date the decision was  
25 provided to the party submitting the written submission for decision.

26 (c) The awarding authority shall compile, twice yearly, a report that shall include all data  
27 required pursuant to subsection (b) over the most recent 6-month period, the first of which shall  
28 be filed not later than May 1, and the second not later than November 1. These reports shall be  
29 filed with the clerks of the senate and house of representatives, the chairs of the house and senate  
30 committees on ways and means, the senate and house chairs of the joint committees on  
31 transportation and state administration and regulatory oversight and the inspector general. The  
32 inspector general may, pursuant to the powers granted by section 9 of chapter 12A, make any  
33 investigations, audits or reports regarding the filings submitted by the awarding authorities.