

HOUSE No. 3383

The Commonwealth of Massachusetts

PRESENTED BY:

Chynah Tyler

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 equity and public contracting.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>1/20/2017</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>	<i>2/3/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/21/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/26/2017</i>
<i>Juana B. Matias</i>	<i>16th Essex</i>	<i>1/30/2017</i>
<i>Bud Williams</i>	<i>11th Hampden</i>	<i>1/30/2017</i>

HOUSE No. 3383

By Ms. Tyler of Boston, a petition (accompanied by bill, House, No. 3383) of Chynah Tyler and others relative to diversity in public contracting. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to equity and public contracting.

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 1 of Chapter 7 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the last paragraph the following
3 paragraphs:-

4 "Low income community", a municipality where the median household income is 65
5 percent or less than the statewide household median income. In the case of a municipality with
6 50,000 residents or more, low income community shall mean a geographically contiguous,
7 historically recognized neighborhood of 10,000-50,000 residents.

8 "Minority business enterprise", as used in this chapter shall be defined as it is in Section
9 58 of Chapter 7 of the General Laws, as appearing in the 2014 Official Edition.

10 "Women business enterprise", as used in this chapter shall be defined as it is in Section
11 58 of Chapter 7 of the General Laws, as appearing in the 2014 Official Edition.

SECTION 2. Section 14C of said chapter 7 of the General Laws as so appearing in the 2014 Official Edition, is hereby amended by inserting after the last paragraph the following paragraphs:-

Within 150 calendar days of the effective date of this section, any entity awarded a contract under the provisions of Chapter 7, shall provide written verification with every invoice submitted to the awarding authority detailing the portion of the payment that will be allocated to minority business enterprises and women business enterprises, and reporting the racial, ethnic and gender make-up of the awardees' workforce in Massachusetts. The awardee shall take necessary steps to prevent the disclosure of individually-identifying information about employees on this report.

The executive office of administration and finance shall, within 90 calendar days of the effective date of this section, promulgate a template reporting form, for optional use by the awarding authority, to assist contractors in meeting the requirements of this section.

The awarding authority shall submit the report to the Massachusetts Management and Reporting System (MMARS) within 30 calendar days of receiving it. The Comptroller of the Commonwealth shall, within 120 of the effective date of this section, develop appropriate fields within the MMARS for receiving this data.

SECTION 3. The definition of "Responsible" in section 44A of chapter 149 of the General Laws, as so appearing, is hereby amended by adding the following words:- provided, however, that in deliberating upon the responsibility of a bidder, a contracting public agency shall consider a bidder's compliance with commitments made in previous bids or contract documents with the Commonwealth, if any, including, but not limited to, the failure of a bidder,

contractor, or proposed subcontractor to comply with the requirements regarding the employment of minority business enterprises and women business enterprises and regarding workforce requirements.

SECTION 4. Section 44A½ of said chapter 149, as so appearing, is hereby amended by inserting after the last paragraph the following paragraphs:-

(a) It shall be the requirement of the Commonwealth that sub contracts on state-funded construction be targeted to members of the community in which a project is physically located and that the sub contracts on that project reflect 33% blended minority business enterprise and women business enterprise of the host community, when construction projects are located in low income communities.

SECTION 5. Paragraph (1) of subsection (e) of section 44D½ of said section 149, as so appearing, is hereby amended by adding the following clause:-

(viii) Joint Ventures, documentation demonstrating that the firm has formed an association of not less than 2 businesses in which 1 of the businesses is a minority business enterprise or a women business enterprise.

SECTION 6. Said section 44D½ of said chapter 149, as so appearing, is hereby amended by inserting after line 110, the following text:-

(iii) Evidence of the bidder, contractor, or proposed contractor's ability to advance the Commonwealth's contracting and workforce requirements as stated in Section 44A ½ of Chapter 149.

SECTION 7. Said chapter 149, as so appearing, is hereby amended by inserting after section 44M the following section:-

Section 44N. Data collection and disclosure

Within 150 calendar days of the effective date of this section, any entity awarded a contract for construction by a state agency shall provide written verification with every progress payment request (PPR) submitted to the awarding authority detailing the portion of the payment that will be allocated to minority business enterprises and women business enterprises respectively, as defined in Section 58 of Chapter 7, and detailing the total number of hours worked by all employees on that contract during the period covered by the PPR; and including a breakdown of hours worked by workers' ZIP codes of residence, as well as a breakdown of the number of hours worked by women and workers of color, respectively. The reporting entity shall take necessary steps to prevent the disclosure of individually-identifying information about employees on this report.

The executive office of administration and finance shall, within 90 calendar days of the effective date of this section, promulgate a template reporting form, for optional use by the awarding authority, to assist contractors in meeting the requirements of this section.

The awarding authority shall submit the report to the Massachusetts Management and Reporting System (MMARS) within 30 calendar days of receiving it. The Comptroller of the Commonwealth shall, within 120 of the effective date of this section, develop appropriate fields within the MMARS for receiving this data.