

SENATE No. 2018

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

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 in public contracting in honor of Bruce C. Bolling.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|----------------------------|--|------------------|
| <i>Sonia Chang-Diaz</i> | <i>Second Suffolk</i> | |
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | <i>3/10/2021</i> |
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> | <i>3/18/2021</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>4/25/2021</i> |

SENATE No. 2018

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 2018) of Sonia Chang-Diaz, Elizabeth A. Malia and Joanne M. Comerford for legislation relative to equity in public contracting in honor of Bruce C. Bolling. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1807 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to equity in public contracting in honor of Bruce C. Bolling.

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 2016
2 Official Edition, is hereby amended by adding the following definitions:-

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

7 “Minority business enterprise”, as used in this chapter shall be defined as it is in section
8 58 of chapter 7 of the General Laws, as so appearing.

9 “Women business enterprise” as used in this chapter shall be defined as it is in section 58
10 of chapter 7 of the General Laws, as so appearing.

11 SECTION 2. Section 14C of said chapter 7 of the General Laws, as so appearing, is
12 hereby amended by inserting after subsection (h) the following subsections:-

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

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

23 (k) The awarding authority shall submit the report to the Massachusetts Management and
24 Reporting System (MMARS) within 30 calendar days of receiving it. The comptroller of the
25 commonwealth shall, within 120 days of the effective date of this section, develop appropriate
26 fields within the MMARS for receiving this data.

27 SECTION 3. Section 22O of chapter 7 of the General Laws, as so appearing, is hereby
28 amended by adding the following sentence:-

29 The commonwealth shall seek to achieve minority business enterprise and women
30 business enterprise contracting goals within state procurement that reflect the diverse racial,
31 ethnic and gender makeup of the commonwealth’s population.

32 SECTION 4. Section 1 of chapter 149 of the General Laws, as so appearing, is hereby
33 amended by adding the following definitions:-

34 “Low income community”, a municipality where the median household income is 65 per
35 cent or less than the statewide household median income. In the case of a municipality with
36 50,000 residents or more, low income community shall mean a geographically contiguous,
37 historically recognized neighborhood of 10,000-50,000 residents.

38 “Minority business enterprise”, as used in this chapter shall be defined as it is in section
39 58 of chapter 7 of the General Laws, as so appearing.

40 “Women business enterprise” as used in this chapter shall be defined as it is in section 58
41 of chapter 7 of the General Laws, as so appearing.

42 SECTION 5. Section 44A of chapter 149 of the General Laws, as so appearing, is hereby
43 amended by inserting after the word “chapter;” in line 17 the following sentence:- provided,
44 however, that in deliberating upon the responsibility of a bidder, a contracting public agency
45 shall consider a bidder’s compliance with commitments made in previous bids or contract
46 documents with the commonwealth, if any, including, but not limited to, the failure of a bidder,
47 contractor, or proposed subcontractor to comply with the commitments regarding the
48 employment of minority business enterprises and women business enterprises and regarding
49 workforce inclusion goals.

50 SECTION 6. Section 44A½ of said chapter 149, as so appearing, is hereby amended by
51 adding the following paragraphs:-

52 (d) It shall be the goal of the commonwealth to achieve minority business enterprise and
53 women business enterprise contracting goals and workforce participation goals on the totality of
54 state-funded design and construction contracts that are reflective of the diverse racial, ethnic, and
55 gender make-up of the commonwealth's population.

56 (e) It shall be the goal of the commonwealth that job creation on state-funded
57 construction contracts be targeted to members of the community in which a project is physically
58 located and that the workforce on that project reflect the demographic diversity of the host
59 community, when construction projects are located in low income communities.

60 SECTION 7. Paragraph (1) of subsection (e) of section 44D½ of chapter 149, as so
61 appearing, is hereby amended by adding the following sentence:-

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

65 SECTION 8. Paragraph (3) of subsection (e) of section 44D½ of chapter 149, as so
66 appearing, is hereby amended by adding the following sentence:-

67 (iii) Evidence of the bidder, contractor, or proposed contractor's ability to advance the
68 commonwealth's contracting and workforce inclusion goals as stated in section 44A½ of chapter
69 149.

70 SECTION 9. Said chapter 149, as so appearing, is hereby amended by adding the
71 following section:-

72 Section 44N. Data collection and disclosure

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

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

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