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HOUSE . . . . . No. 3750

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to thresholds for mandated use of the designer selection law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 38C of Chapter 7 of the General Laws is hereby amended by striking paragraph (e) and inserting in place thereof the following:-

(e) Subject to the provisions of paragraph (f), a contract for design services shall be exempt from jurisdiction of the board if: (i) the design fee under the contract is less than fifty thousand dollars; or (ii) the estimated construction cost of the project for which the design services are required is less than five hundred thousand dollars; or (iii) the contract is for the fabrication or installation of modular buildings procured in accordance with the provisions of section forty-four E of chapter one hundred and forty-nine; or (iv) the contract is for the demolition of buildings. Projects consisting of energy management services procured in accordance with section eleven C of chapter twenty-five A and regulations promulgated thereunder shall be exempt from the jurisdiction of the board.

SECTION 2. Section 38D of Chapter 7 of the General Laws is hereby amended by striking paragraph (a) and inserting in place thereof the following:-

14 Section 38D. (a) Each contract for designer services for a project subject to the
15 jurisdiction of the board shall be publicly advertised by the board in a newspaper of general
16 circulation in the area in which the project is located or to be located, and in the central register
17 established under section twenty A of chapter nine, and in such places as the board requires by
18 regulation, at least two weeks before the deadline for filing applications.

19 SECTION 3. Paragraph (e) of section 38H of Chapter 7 of the General Laws is hereby
20 amended by striking clause (iv) and inserting in place thereof the following:-

21 (iv) certification with respect to contracts which exceed fifty thousand dollars or which
22 are for the design of a building for which the budgeted or estimated construction costs exceed
23 five hundred thousand dollars that the designer has internal accounting controls as required by
24 subsection (c) of section thirty-nine R of chapter thirty and that the designer has filed and will
25 continue to file an audited financial statement as required by subsection (d) of said section thirty-
26 nine R.

27 SECTION 4. Section 38K of Chapter 7 of the General Laws is hereby amended by
28 striking paragraph (a) and inserting in place thereof the following:-

29 (a) Every contract for design services for any building construction, reconstruction,
30 alteration, remodeling, or repair estimated to exceed five hundred thousand dollars by any city,
31 town, or agency, board, commission, authority or instrumentality thereof, other than housing
32 authorities and projects requesting funding from the Massachusetts School Building Authority
33 shall be awarded only after a selection procedure adopted in writing, prior to publication
34 requesting applications, complying with the purposes and intent of sections thirty-eight A1/2 to
35 thirty-eight O, inclusive, and the following requirements:

36 (i) the provisions of section thirty-eight D regarding public notice;

37 (ii) the establishment of uniform requirements of information to be submitted by all
38 applicants, a uniform procedure for the evaluation of all applications to a group of not fewer than
39 3 finalists, the opportunity to be afforded equally to all finalists to provide additional information
40 to or appear before the selection body, and a procedure for the submission of a fee proposal and
41 the negotiation of fees between the awarding authority and the selected applicant with whom the
42 fee is being negotiated consistent with the provisions of subsection (b) of section 38G;

43 (iii) that a written explanation of the reasons for selection including the recorded vote if
44 any was taken be made public and accompany the notification of award in the awarding
45 authority's records;

46 (iv) the provisions of paragraph (c) of section thirty-eight G regarding the designation of
47 fees in the contract;

48 (v) that nothing in this section shall be interpreted to require the establishment of a board
49 or to waive or reduce the requirements of any other applicable law or regulation.