

AGC of Massachusetts
Chapter 193 of the Acts of 2004
The Public Construction Reform Legislation

Index of Key Changes and Section-by-Section Synopsis

Index of Key Changes:

- CM at Risk and Design Build as Alternative Delivery Options. Section 27
- Requires Owners Project Managers on projects over \$1.5 million. Section 13
- Requires pre-qualification of general contractors and filed sub-bidders on projects over \$10 million. Section 19
- Requires subcontractor bonding when pre-qualification occurs. Sections 14; 22; 23; 24
- Increased filed sub-bidder thresholds. Sections 9; 11; 21

Section-by-Section Synopsis:

- Section 1. Amends 38A1/2 of Chapter 7; refers to definition of a public agency
- Section 2. Amends 38D of Chapter 7 to tighten designer procurement
- Section 3. Amends 3 BR of Chapter 7 eliminates 2-step designer selection for municipalities
- Section 4. Amends 38K of Chapter 7 to require standard designer selection/evaluation process for municipalities
- Section 5. Amends 38K of Chapter 7; refers to uniformity between public agencies and municipalities
- Section 6. Amends 40N of Chapter 7 to establish an Affirmative Marketing program in the procurement of MBE/WBE's
- Section 7. Amends 44 of Chapter 23A by establishing an Affirmative Marketing program with updated responsibilities of SOMWBA

- Section 8. Amends 29F of Chapter 29 by tightening definition of debarment
- Section 9. Amends 39M of Chapter 30 by changing procurement threshold from \$25,000 to \$100,000
- Section 10. Amends 39M of Chapter 30 by adding imminent security threat language
- Section 11. Amends 44A of Chapter 149 to increase filed sub-bid thresholds
- Section 12. Amends 44A of Chapter 149 by adding imminent security threat language
- Section 13. Creates a new Section 44A ½ of Chapter 149 that requires an Owner's Project Manager for all projects over \$1.5 million
- Section 14. Amends 44B of Chapter 149 by referring to the new requirement for sub bidder bonding when pre-qualification occurs
- Section 15. Amends 44D of Chapter 149; refers to the Certificate of Eligibility and the Public Record
- Section 16. Amends 44D of Chapter 149; refers to Evaluations and the Public Record
- Section 17. Amends 44D of Chapter 149; refers to sub-bidder Evaluations
- Section 18. Amends 44D of Chapter 149 by adding the requirement that filed sub-bidders must be DCAM certified
- Section 19. Creates a new Section 44D ½ of Chapter 149 requiring project by project pre-qualification of general contractors and creates a new Section 44D ¾ of Chapter 149 requiring project by project pre-qualification of filed sub-bidders on projects more than \$10 million
- Section 20. Amends 44E of Chapter 149 to require that voluntary pre-qualification of general contractors and filed sub-bidders on projects less than \$10 million be conducted in the same manner as defined in 44D ½ and 44D ¾
- Section 21. Amends 44F of Chapter 149 by raising the individual filed-sub-bidder threshold from \$10,000 to \$20,000
- Section 22. Amends 44F (subsection 2) of Chapter 149; refers to subcontractor bonding and requires subcontractor bonding when subcontractor prequalification occurs

- Section 23. Amends 44F (subsection 3) of Chapter 149; further refers to subcontractor bonding
- Section 24. Amends 44F (subsection 4) of Chapter 149; further refers to subcontractor bonding
- Section 25. Amends 44H of Chapter 149 increasing Attorney General's enforcement mechanisms
- Section 26. Amends 148B to further define an "employee" and spells out employees misclassification enforcement and penalties
- Section 27. Creates a new Chapter 149A – "Public Construction Alternative Delivery Methods"
 - CM at Risk (sections 1 – 13 of Section 27)
 - Design Build (sections 14-21 of Section 27)
- Section 28. Amends Chapter 152; refers to enforcement of worker's compensation misclassification
- Section 29. Amends Chapter 773 by clarifying non-governmental sources of revenue for Mass. State College Building Authority (MSCBA)
- Section 29 ½. Clarifies previous Section 29 to say it expires on August 1, 2006
- Section 30. Amends Chapter 703; refers to MSCBA's procurement of construction. (sections 1 – 21 I of Section 30)
- Section 31. Amends Chapter 127; refers to DCAM's ability to serve as Project Manager with State College and Universities on projects less than \$500,000
- Section 32. Refers to UMass Auxiliary organizations
- Section 32A. Refers to UMass Auxiliary organizations
- Section 33. Refers to Massachusetts Development Finance Agency providing \$500,000 to the Massachusetts Alliance for Small Contractors for WBE/WBE development and assistance
- Section 34. Sets January 1, 2005 date for implementation of CM at Risk and Design Build and for DCAM certification of Filed Sub-Bidders