

HOUSE No. 5053

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 28, 2022.

The committee on Ways and Means, to whom was referred the Bill relative to transparency in private utility construction contracts (House, No. 3281), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 5053).

For the committee,

AARON MICHLEWITZ.

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

An Act relative to transparency in private utility construction contracts.

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

1 Chapter 164 of the General Laws is hereby amended by inserting after section 76D the
2 following section:-

3 Section 76E. (a) As used in this section, the following words shall, unless the context
4 clearly otherwise requires, have the following meanings:

5 “Bid”, a written offer to provide a service at a stated price submitted in response to an
6 invitation for bids.

7 “Company”, a gas company or a distribution company.

8 “Contract”, an agreement for the procurement of services pursuant to subsection (b),
9 regardless of what the parties call the agreement.

10 “Invitation for bids”, the documents utilized for the soliciting of bids, including
11 documents attached or incorporated by reference.

12 “Responsible bidder”, a person who has the capability to perform fully the contract
13 requirements and the integrity and reliability that assures good faith performance.

14 “Score”, the quantitative or qualitative rating or method utilized by the company to award
15 a contract.

16 (b) Each company shall be subject to this section when entering into a contract in the
17 amount of \$100,000 or more for services related to the excavation or construction upon, along,
18 under or across any public way; provided, however, that if there is only 1 response to an
19 invitation for bids, a company shall not be required to comply with this section.

20 (c) A company shall: (i) within 2 business days after the decision has been made to award
21 the contract, inform, by notice in writing by the most rapid means of communication possible,
22 any responsible bidder that submitted a bid of its decision awarding the contract; and (ii) post the
23 winning bid on its website with the: (A) name of the contractor awarded the contract; (B) amount
24 of the contract; and (C) location of the project.

25 (d) The written notice to each responsible bidder pursuant to clause (i) of subsection (c)
26 shall include: (i) the criteria for the award of the contract; and (ii) the score obtained by the
27 responsible bidder.

28 (e) A company may withhold any information to be provided pursuant to subsections (c)
29 or (d) if the disclosure of such information may: (i) impede law enforcement; (ii) otherwise be
30 contrary to the public interest; (iii) prejudice the legitimate commercial interests of any
31 responsible bidder; or (iv) interfere with competition between responsible bidders.

32 (f) The department shall enforce this section and may promulgate regulations and issue
33 orders it deems in the public interest regarding the procurement practices of companies.