

Bill No. SB 1784

Barcode 695532

CHAMBER ACTION

Senate

House

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

.  
. .  
. .  
. .  
. .  
. .

The Committee on Regulated Industries (Wise) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Paragraphs (d) and (g) of subsection (2), paragraph (a) of subsection (3), and paragraphs (b) and (c) of subsection (4) of section 287.055, Florida Statutes, are amended, and paragraph (1) is added to subsection (2) of that section, to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.--

(2) DEFINITIONS.--For purposes of this section:

(d) "Compensation" means the ~~total~~ amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be

1 calculated.

2 (g) A "continuing contract" is a contract for  
 3 professional services entered into in accordance with all the  
 4 procedures of this act between an agency and a firm whereby  
 5 the firm provides professional services to the agency for  
 6 projects in which construction costs do not exceed \$1 million,  
 7 for study activity when the fee for such professional service  
 8 does not exceed \$50,000, or for work of a specified nature as  
 9 outlined in the contract required by the agency, with no time  
 10 limitation except that the contract must provide a termination  
 11 clause. Firms providing professional services under continuing  
 12 contracts shall not be required to bid against one another.

13 (1) "Negotiate" or any form of that word means to  
 14 conduct legitimate, arms length discussions and conferences to  
 15 reach an agreement on a term or price. For purposes of this  
 16 section, the term does not include presentation of flat-fee  
 17 schedules with no alternatives or discussion.

18 (3) PUBLIC ANNOUNCEMENT AND QUALIFICATION  
 19 PROCEDURES.--

20 (a)1. Each agency shall publicly announce, in a  
 21 uniform and consistent manner, each occasion when professional  
 22 services must be purchased for a project the basic  
 23 construction cost of which is estimated by the agency to  
 24 exceed the threshold amount provided in s. 287.017 for  
 25 CATEGORY FIVE or for a planning or study activity when the fee  
 26 for professional services exceeds the threshold amount  
 27 provided in s. 287.017 for CATEGORY TWO, except in cases of  
 28 valid public emergencies certified by the agency head. The  
 29 public notice must include a general description of the  
 30 project and must indicate how interested consultants may apply  
 31 for consideration.

Bill No. SB 1784

Barcode 695532

1           2. Each agency shall provide a good faith estimate in  
2 determining whether the proposed activity meets the threshold  
3 amounts referred to in this paragraph.

4           3. If an agency determines that a proposed activity  
5 does not meet the monetary thresholds referred to in this  
6 paragraph and proceeds to solicit bids for the activity, and  
7 if the average of all of the responsive bids actually received  
8 by the agency exceeds such thresholds for the specified  
9 activity, the agency shall reject all bids and proceed in  
10 accordance with the provisions of this section.

11           (4) COMPETITIVE SELECTION.--

12           (b) The agency shall select in order of preference no  
13 fewer than three firms deemed to be the most highly qualified  
14 to perform the required services. In determining whether a  
15 firm is qualified, the agency shall consider such factors as  
16 the ability of professional personnel; whether a firm is a  
17 certified minority business enterprise; past performance;  
18 proven capability ~~willingness~~ to meet time and budget  
19 requirements; location, if the agency has adopted a  
20 local-preference program; recent, current, and projected  
21 ~~workloads of the firms;~~ and the volume of work previously  
22 awarded to each firm by the agency, with the object of  
23 effecting an equitable distribution of contracts among  
24 qualified firms, provided such distribution does not violate  
25 the principle of selection of the most highly qualified firms.  
26 The agency may request, accept, and consider proposals for the  
27 compensation to be paid under the contract only during  
28 competitive negotiations under subsection (5).

29           (c) This subsection does not apply to a professional  
30 service contract for a project the basic construction cost of  
31 which is estimated by the agency to be not in excess of the

Bill No. SB 1784

Barcode 695532

1 threshold amount provided in s. 287.017 for CATEGORY FIVE or  
 2 for a planning or study activity when the fee for professional  
 3 services is not in excess of the threshold amount provided in  
 4 s. 287.017 for CATEGORY TWO. However, when such an  
 5 alternative-procurement process is used, the agency shall, if  
 6 the compensation proposed by a majority of the firms that  
 7 submit bids exceeds the amount of such threshold estimate,  
 8 reject all proposals and reinstate procurement under this  
 9 subsection.

10 Section 2. This act shall take effect July 1, 2005.

11  
12

13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete everything before the enacting clause

16  
17 and insert:

18 An act relating to professional services  
 19 acquisition; amending s. 287.055, F.S.;  
 20 revising certain definitions; defining the term  
 21 "negotiate"; providing additional criteria for  
 22 processing bids to purchase professional  
 23 services which exceed certain threshold  
 24 amounts; revising the criteria for the  
 25 competitive selection of bids to purchase  
 26 professional services; providing an effective  
 27 date.

28  
29  
30  
31