

By Senator Clary

4-495-05

See HB 601

1 A bill to be entitled
2 An act relating to professional services
3 acquisition; amending s. 287.055, F.S.;
4 revising certain definitions; defining the term
5 "negotiate"; providing additional criteria for
6 processing bids to purchase professional
7 services which exceed certain threshold
8 amounts; providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Paragraphs (d) and (g) of subsection (2)
13 and paragraph (a) of subsection (3) of section 287.055,
14 Florida Statutes, are amended, and paragraph (1) is added to
15 subsection (2) of that section, to read:

16 287.055 Acquisition of professional architectural,
17 engineering, landscape architectural, or surveying and mapping
18 services; definitions; procedures; contingent fees prohibited;
19 penalties.--

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

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

26 (g) A "continuing contract" is a contract for
27 professional services entered into in accordance with all the
28 procedures of this act between an agency and a firm whereby
29 the firm provides professional services to the agency for
30 projects in which construction costs do not exceed \$1 million,
31 for study activity when the fee for such professional service

1 does not exceed \$50,000, or for work of a specified nature as
2 outlined in the contract required by the agency, with no time
3 limitation except that the contract must provide a termination
4 clause. Professionals under continuing contracts shall not be
5 required to bid against one another.

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

11 (3) PUBLIC ANNOUNCEMENT AND QUALIFICATION
12 PROCEDURES.--

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

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

28 3. If an agency determines that a proposed activity
29 does not meet the monetary thresholds referred to in this
30 paragraph and proceeds to solicit bids for the activity, and
31 if the average of all of the responsive bids actually received

1 by the agency exceeds such thresholds for the specified
2 activity, the agency shall reject all bids and proceed in
3 accordance with the provisions of this section.

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