

CHAMBER ACTION

1 The State Administration Appropriations Committee recommends the  
2 following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to professional services acquisition;  
8 amending s. 287.055, F.S.; revising certain definitions;  
9 defining the term "negotiate"; providing additional  
10 criteria for processing bids to purchase professional  
11 services that exceed certain threshold amounts; revising  
12 the criteria for the competitive selection of bids to  
13 purchase professional services; requiring the agency to  
14 reject proposals and reinitiate procurement pursuant to  
15 competitive selection under certain circumstances;  
16 providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Paragraphs (d) and (g) of subsection (2),  
21 paragraph (a) of subsection (3), and paragraphs (b) and (c) of  
22 subsection (4) of section 287.055, Florida Statutes, are

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23 | amended, and paragraph (1) is added to subsection (2) of said  
24 | section, to read:

25 |       287.055 Acquisition of professional architectural,  
26 | engineering, landscape architectural, or surveying and mapping  
27 | services; definitions; procedures; contingent fees prohibited;  
28 | penalties.--

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

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

34 |       (g) A "continuing contract" is a contract for professional  
35 | services entered into in accordance with all the procedures of  
36 | this act between an agency and a firm whereby the firm provides  
37 | professional services to the agency for projects in which  
38 | construction costs do not exceed \$1 million, for study activity  
39 | when the fee for such professional service does not exceed  
40 | \$50,000, or for work of a specified nature as outlined in the  
41 | contract required by the agency, with no time limitation except  
42 | that the contract must provide a termination clause. Firms  
43 | providing professional services under continuing contracts shall  
44 | not be required to bid against one another.

45 |       (1) "Negotiate" or any form of that word means to conduct  
46 | legitimate, arm's length discussions and conferences to reach an  
47 | agreement on a term or price. For purposes of this section, the  
48 | term does not include presentation of flat-fee schedules with no  
49 | alternatives or discussion.

50 |       (3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.--

51 (a)1. Each agency shall publicly announce, in a uniform  
 52 and consistent manner, each occasion when professional services  
 53 must be purchased for a project the basic construction cost of  
 54 which is estimated by the agency to exceed the threshold amount  
 55 provided in s. 287.017 for CATEGORY FIVE or for a planning or  
 56 study activity when the fee for professional services exceeds  
 57 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
 58 except in cases of valid public emergencies certified by the  
 59 agency head. The public notice must include a general  
 60 description of the project and must indicate how interested  
 61 consultants may apply for consideration.

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

65 (4) COMPETITIVE SELECTION.--

66 (b) The agency shall select in order of preference no  
 67 fewer than three firms deemed to be the most highly qualified to  
 68 perform the required services. In determining whether a firm is  
 69 qualified, the agency shall consider such factors as the ability  
 70 of professional personnel; whether a firm is a certified  
 71 minority business enterprise; past performance; proven  
 72 capability ~~willingness~~ to meet time and budget requirements;  
 73 location, if the agency has adopted a local-preference program;  
 74 ~~recent, current, and projected workloads of the firms;~~ and the  
 75 volume of work previously awarded to each firm by the agency,  
 76 with the object of effecting an equitable distribution of  
 77 contracts among qualified firms, provided such distribution does  
 78 not violate the principle of selection of the most highly

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79 | qualified firms. The agency may request, accept, and consider  
80 | proposals for the compensation to be paid under the contract  
81 | only during competitive negotiations under subsection (5).

82 |       (c) This subsection does not apply to a professional  
83 | service contract for a project the basic construction cost of  
84 | which is estimated by the agency to be not in excess of the  
85 | threshold amount provided in s. 287.017 for CATEGORY FIVE or for  
86 | a planning or study activity when the fee for professional  
87 | services is not in excess of the threshold amount provided in s.  
88 | 287.017 for CATEGORY TWO. However, if, in using another  
89 | procurement process, the majority of the compensation proposed  
90 | by firms is in excess of the appropriate threshold amount, the  
91 | agency shall reject all proposals and reinitiate the procurement  
92 | pursuant to this subsection.

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