

CHAMBER ACTION

1 The State Administration Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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17 Section 1. Paragraphs (d) and (g) of subsection (2),
18 paragraph (a) of subsection (3), and paragraph (c) of subsection
19 (4) of section 287.055, Florida Statutes, are amended, and
20 paragraph (1) is added to subsection (2) of said section, to
21 read:

22 287.055 Acquisition of professional architectural,
23 engineering, landscape architectural, or surveying and mapping

24 services; definitions; procedures; contingent fees prohibited;
25 penalties.--

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

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

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

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

47 (3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.--

48 (a)1. Each agency shall publicly announce, in a uniform
49 and consistent manner, each occasion when professional services
50 must be purchased for a project the basic construction cost of
51 which is estimated by the agency to exceed the threshold amount

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52 | provided in s. 287.017 for CATEGORY FIVE or for a planning or
 53 | study activity when the fee for professional services exceeds
 54 | the threshold amount provided in s. 287.017 for CATEGORY TWO,
 55 | except in cases of valid public emergencies certified by the
 56 | agency head. The public notice must include a general
 57 | description of the project and must indicate how interested
 58 | consultants may apply for consideration.

59 | 2. Each agency shall provide a good faith estimate in
 60 | determining whether the proposed activity meets the threshold
 61 | amounts referred to in this paragraph.

62 | (4) COMPETITIVE SELECTION.--

63 | (c) This subsection does not apply to a professional
 64 | service contract for a project the basic construction cost of
 65 | which is estimated by the agency to be not in excess of the
 66 | threshold amount provided in s. 287.017 for CATEGORY FIVE or for
 67 | a planning or study activity when the fee for professional
 68 | services is not in excess of the threshold amount provided in s.
 69 | 287.017 for CATEGORY TWO. However, if, in using another
 70 | procurement process, the majority of the compensation proposed
 71 | by firms is in excess of the appropriate threshold amount, the
 72 | agency shall reject all proposals and reinitiate the procurement
 73 | pursuant to this subsection.

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