

CS/HB 1451

2007

1 A bill to be entitled

2 An act relating to procurement of personal property and  
3 services; amending s. 287.055, F.S., relating to the  
4 acquisition of professional architectural, engineering,  
5 landscape architectural, or surveying and mapping  
6 services; revising provisions relating to the award of  
7 design-build contracts for such services by  
8 municipalities, political subdivisions, school districts,  
9 and school boards; amending s. 287.057, F.S.; requiring  
10 that additional types of contracts by state agencies be  
11 procured by competitive solicitation; providing for  
12 specified notice to be provided via a public notice  
13 website; providing for establishment of the website by the  
14 Department of Management Services; requiring the  
15 department to establish requirements for the website;  
16 authorizing the website provider to charge a fee for  
17 posting of notice; providing for remittance of a  
18 percentage of revenues to the clerks of court; providing  
19 severability; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23 Section 1. Subsection (9) of section 287.055, Florida  
24 Statutes, is amended 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 (9) APPLICABILITY TO DESIGN-BUILD CONTRACTS.--

30 (a) Except as provided in this subsection, this section is  
 31 not applicable to the procurement of design-build contracts by  
 32 any agency, and the agency must award design-build contracts in  
 33 accordance with the procurement laws, rules, and ordinances  
 34 applicable to the agency.

35 (b) The design criteria package must be prepared and  
 36 sealed by a design criteria professional employed by or retained  
 37 by the agency. If the agency elects to enter into a professional  
 38 services contract for the preparation of the design criteria  
 39 package, then the design criteria professional must be selected  
 40 and contracted with under the requirements of subsections (4)  
 41 and (5). A design criteria professional who has been selected to  
 42 prepare the design criteria package is not eligible to render  
 43 services under a design-build contract executed pursuant to the  
 44 design criteria package.

45 (c) Except as otherwise provided in s. 337.11(7), the  
 46 Department of Management Services shall adopt rules for the  
 47 award of design-build contracts to be followed by state  
 48 agencies. Each other agency must adopt rules or ordinances for  
 49 the award of design-build contracts. Municipalities, political  
 50 subdivisions, school districts, and school boards shall award  
 51 design-build contracts by the use of a competitive proposal  
 52 selection process as described in this subsection, or by the use  
 53 of a qualifications-based selection process pursuant to  
 54 subsections (3), (4), and (5) for entering into a contract with  
 55 ~~whereby~~ the selected firm that establishes the compensation or  
 56 method by which compensation is to be paid for professional

57 services to be rendered by the firm and, at the option of the  
58 agency, the method by which ~~will subsequently establish a~~  
59 guaranteed maximum price, that may include construction costs,  
60 and a guaranteed completion date ~~will subsequently be determined~~  
61 and agreed to by the parties. If the procuring agency elects the  
62 option of qualifications-based selection, during the selection  
63 of the design-build firm the procuring agency shall employ or  
64 retain a licensed design professional appropriate to the project  
65 to serve as the agency's representative. Procedures for the use  
66 of a competitive proposal selection process must include as a  
67 minimum the following:

68 1. The preparation of a design criteria package for the  
69 design and construction of the public construction project.

70 2. The qualification and selection of no fewer than three  
71 design-build firms as the most qualified, based on the  
72 qualifications, availability, and past work of the firms,  
73 including the partners or members thereof.

74 3. The criteria, procedures, and standards for the  
75 evaluation of design-build contract proposals or bids, based on  
76 price, technical, and design aspects of the public construction  
77 project, weighted for the project.

78 4. The solicitation of competitive proposals, pursuant to  
79 a design criteria package, from those qualified design-build  
80 firms and the evaluation of the responses or bids submitted by  
81 those firms based on the evaluation criteria and procedures  
82 established prior to the solicitation of competitive proposals.

83 5. For consultation with the employed or retained design  
84 criteria professional concerning the evaluation of the responses

85 or bids submitted by the design-build firms, the supervision or  
 86 approval by the agency of the detailed working drawings of the  
 87 project; and for evaluation of the compliance of the project  
 88 construction with the design criteria package by the design  
 89 criteria professional.

90 6. In the case of public emergencies, for the agency head  
 91 to declare an emergency and authorize negotiations with the best  
 92 qualified design-build firm available at that time.

93 Section 2. Subsection (27) is added to section 287.057,  
 94 Florida Statutes, to read:

95 287.057 Procurement of commodities or contractual  
 96 services.--

97 (27) An agency must procure a contract by competitive  
 98 solicitation if the contract authorizes a contractor to use  
 99 governmental authority to provide a service to public or private  
 100 entities or authorizes a contractor to use government property  
 101 for the purpose of selling goods or services and if, over the  
 102 contract term, the sum of estimated gross revenues to be  
 103 generated under the contract for the state, the contractor, or  
 104 both exceeds the threshold amount for CATEGORY TWO in s.  
 105 287.017.

106 Section 3. Notwithstanding any other provision of law to  
 107 the contrary, when notice or advertisement is required by law,  
 108 with the exception of notice requiring personal service and  
 109 notice requiring service by certified or registered mail, a form  
 110 of notice that is substantially identical in form to that  
 111 required by law may be lawfully provided via a public notice  
 112 website to be established by the Department of Management

CS/HB 1451

2007

113 Services. The Department of Management Services shall establish  
114 requirements for the website. The website shall be freely  
115 accessible to the public and shall be operated by the website  
116 provider at no cost to the state. The website provider may  
117 charge a reasonable fee for the posting of notice, not to exceed  
118 \$10, but shall not charge for public access to or use of any of  
119 the website's browsing features. The website shall remit to the  
120 clerks of court an amount equal to 15 percent of the revenues  
121 that would have been generated through the posting of notice by  
122 traditional means in the courts within the state.

123 Section 4. If any provision of this act or the application  
124 thereof to any person or circumstance is held invalid, the  
125 invalidity shall not affect other provisions or applications of  
126 the act which can be given effect without the invalid provision  
127 or application, and to this end the provisions of this act are  
128 declared severable.

129 Section 5. This act shall take effect July 1, 2007.