

1 A bill to be entitled
 2 An act relating to public project construction; amending
 3 s. 255.05, F.S.; providing additional requirements for
 4 payment and performance bonds; prohibiting conditioning
 5 certain bonds on performance of or payment for certain
 6 services; creating s. 255.103, F.S.; providing a
 7 definition; authorizing agencies to select construction-
 8 management or program-management entities to be
 9 responsible for certain construction project activities;
 10 providing requirements and authority for such entities;
 11 providing an effective date.

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

14
 15 Section 1. Paragraph (c) is added to subsection (1) of
 16 section 255.05, Florida Statutes, to read:

17 255.05 Bond of contractor constructing public buildings;
 18 form; action by materialmen.--

19 (1)

20 (c)1. The amount of the bond shall equal the contract
 21 price, except, for a contract in excess of \$250 million, if the
 22 state, county, municipality, political subdivision, or other
 23 public entity finds that a bond in the amount of the contract
 24 price is not reasonably available, the public owner shall set
 25 the amount of the bond at the largest amount reasonably
 26 available, but not at less than \$250 million.

27 2. For a construction-management or design-build contract,
 28 if the public owner does not include in the bond amount the cost

29 of design or other nonconstruction services, the bond may not be
 30 conditioned on performance of such services or payment to
 31 persons furnishing such services. Notwithstanding paragraph (a),
 32 such a bond may exclude persons furnishing such services from
 33 the classes of persons protected by the bond.

34 Section 2. Section 255.103, Florida Statutes, is created
 35 to read:

36 255.103 Construction-management or program-management
 37 entities.--

38 (1) The term "agency" as used in this section means a
 39 county, municipality, special district as defined in chapter
 40 189, or other political subdivision of the state.

41 (2) An agency may select a construction-management entity,
 42 pursuant to the process provided by s. 287.055, that would be
 43 responsible for all scheduling and coordination in both design
 44 and construction phases and would be generally responsible for
 45 the successful, timely, and economical completion of the
 46 construction project. The construction-management entity shall
 47 consist of or contract with licensed or registered professionals
 48 for the specific fields or areas of construction to be
 49 performed, as required by law. The construction-management
 50 entity may retain necessary design professionals selected under
 51 the process provided in s. 287.055. At the option of the agency,
 52 the construction-management entity, after being selected, may be
 53 required to offer a guaranteed maximum price or a guaranteed
 54 completion date, in which case, the construction-management
 55 entity shall secure an appropriate surety bond pursuant to s.
 56 255.05 and shall hold construction subcontracts. If a project,

57 as defined in s. 287.055(2)(f), solicited by an agency under the
58 process provided in s. 287.055 includes a grouping of
59 substantially similar construction, rehabilitation, or
60 renovation activities as permitted under s. 287.055(2)(f), the
61 agency may require the construction-management entity to provide
62 for a separate guaranteed maximum price and a separate
63 guaranteed completion date for each grouping of substantially
64 similar construction, rehabilitation, or renovation activities
65 included under the project.

66 (3) An agency may select a program-management entity,
67 pursuant to the process provided by s. 287.055, that would act
68 as the agent of the public agency and would be responsible for
69 schedule control, cost control, and coordination in providing or
70 procuring planning, design, and construction services. The
71 program-management entity shall consist of or contract with
72 licensed or registered professionals for the specific areas of
73 design or construction to be performed, as required by law. The
74 program-management entity may retain necessary design
75 professionals selected under the process provided in s. 287.055.
76 At the option of the agency, the program-management entity,
77 after being selected, may be required to offer a guaranteed
78 maximum price or a guaranteed completion date, in which case the
79 program-management entity shall secure an appropriate surety
80 bond pursuant to s. 255.05 and shall hold design and
81 construction subcontracts. If a project, as defined in s.
82 287.055(2)(f), solicited by an agency under the process provided
83 in s. 287.055 includes a grouping of substantially similar
84 construction, rehabilitation, or renovation activities as

CS/HB 1489

2007

85 permitted under s. 287.055(2)(f), the agency may require the
86 program-management entity to provide for a separate guaranteed
87 maximum price and a separate guaranteed completion date for each
88 grouping of substantially similar construction, rehabilitation,
89 or renovation activities included under the project.

90 Section 3. This act shall take effect July 1, 2007.