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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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The Committee on General Government Appropriations (Dean)
recommended the following:

1 **Senate Substitute for Amendment (758386) (with title**
2 **amendment)**

3
4 Between lines 73 and 74
5 insert:

6 Section 2. Section 255.103, Florida Statutes, is amended to
7 read:

8 255.103 Construction management or program management
9 entities.—

10 (1) As used in this section, the term "governmental entity"
11 ~~"local government"~~ means a county, municipality, school



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12 district, university, community college, special district as
13 defined in chapter 189, or ~~other~~ political subdivision of the
14 state.

15 (2) A governmental entity ~~local government~~ may select a
16 construction management entity, pursuant to the process provided
17 by s. 287.055, which is to be responsible for construction
18 project scheduling and coordination in both preconstruction and
19 construction phases and generally responsible for the
20 successful, timely, and economical completion of the
21 construction project. The construction management entity must
22 consist of or contract with licensed or registered professionals
23 for the specific fields or areas of construction to be
24 performed, as required by law. The construction management
25 entity may retain necessary design professionals selected under
26 the process provided in s. 287.055. At the option of the
27 governmental entity ~~local government~~, the construction
28 management entity, after having been selected and after
29 competitive negotiations, may be required to offer a guaranteed
30 maximum price and a guaranteed completion date or a lump-sum
31 price and a guaranteed completion date, in which case, the
32 construction management entity must secure an appropriate surety
33 bond pursuant to s. 255.05 and must hold construction
34 subcontracts. If a project, as defined in s. 287.055(2)(f),
35 solicited by a governmental entity ~~local government~~ under the
36 process provided in s. 287.055 includes a grouping of
37 substantially similar construction, rehabilitation, or
38 renovation activities as permitted under s. 287.055(2)(f), the
39 governmental entity ~~local government~~, after competitive
40 negotiations, may require the construction management entity to



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41 provide for a separate guaranteed maximum price or a separate
42 lump-sum price and a separate guaranteed completion date for
43 each grouping of substantially similar construction,
44 rehabilitation, or renovation activities included within the
45 project.

46 (3) A governmental entity ~~local government~~ may select a
47 program management entity, pursuant to the process provided by
48 s. 287.055, which is to be responsible for schedule control,
49 cost control, and coordination in providing or procuring
50 planning, design, and construction services. The program
51 management entity must consist of or contract with licensed or
52 registered professionals for the specific areas of design or
53 construction to be performed as required by law. The program
54 management entity may retain necessary design professionals
55 selected under the process provided in s. 287.055. At the option
56 of the governmental entity ~~local government~~, the program
57 management entity, after having been selected and after
58 competitive negotiations, may be required to offer a guaranteed
59 maximum price and a guaranteed completion date or a lump-sum
60 price and guaranteed completion date, in which case the program
61 management entity must secure an appropriate surety bond
62 pursuant to s. 255.05 and must hold design and construction
63 subcontracts. If a project, as defined in s. 287.055(2)(f),
64 solicited by a governmental entity ~~local government~~ under the
65 process provided in s. 287.055 includes a grouping of
66 substantially similar construction, rehabilitation, or
67 renovation activities as permitted under s. 287.055(2)(f), the
68 governmental entity ~~local government~~, after competitive
69 negotiations, may require the program management entity to



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70 provide for a separate guaranteed maximum price or a lump-sum
71 price and a separate guaranteed completion date for each
72 grouping of substantially similar construction, rehabilitation,
73 or renovation activities included within the project.

74 (4) A governmental entity's authority under subsections (2)
75 and (3) includes entering into a continuing contract for
76 construction projects, pursuant to the process provided in s.
77 287.055, for which the total estimated construction cost for
78 each project under the contract does not exceed \$1 million. For
79 purposes of this subsection, the term "continuing contract"
80 means a contract with a construction management or program
81 management entity for work during a defined period on
82 construction projects described by type which may or may not be
83 identified at the time of entering into the contract.

84 (5)~~(4)~~ This section does not prohibit a local government
85 from procuring construction management services, including the
86 services of a program management entity, pursuant to the
87 requirements of s. 255.20.

88 Section 3. Subsection (1) of section 1013.45, Florida
89 Statutes, is amended to read:

90 1013.45 Educational facilities contracting and construction
91 techniques.—

92 (1) Boards may employ procedures to contract for
93 construction of new facilities, or for major additions,
94 remodeling, renovation, maintenance, or repairs to existing
95 facilities, that will include, but not be limited to:

96 (a) Competitive bids.

97 (b) Procuring professional services or design-build
98 contracts ~~Design-build~~ pursuant to s. 287.055, including



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99 continuing contracts for professional services.

100 (c) Selecting a construction management entity, pursuant to
101 s. 255.103 ~~the process provided by s. 287.055~~, that would be
102 responsible for all scheduling and coordination in both design
103 and construction phases and is generally responsible for the
104 successful, timely, and economical completion of the
105 construction project. The construction management entity must
106 consist of or contract with licensed or registered professionals
107 for the specific fields or areas of construction to be
108 performed, as required by law. At the option of the board, the
109 construction management entity, after having been selected, may
110 be required to offer a guaranteed maximum price or a guaranteed
111 completion date; in which case, the construction management
112 entity must secure an appropriate surety bond pursuant to s.
113 255.05 and must hold construction subcontracts. The criteria for
114 selecting a construction management entity shall not unfairly
115 penalize an entity that has relevant experience in the delivery
116 of construction projects of similar size and complexity by
117 methods of delivery other than construction management.

118 (d) Selecting a program management entity, pursuant to s.
119 255.103 ~~the process provided by s. 287.055~~, that would act as
120 the agent of the board and would be responsible for schedule
121 control, cost control, and coordination in providing or
122 procuring planning, design, and construction services. The
123 program management entity must consist of or contract with
124 licensed or registered professionals for the specific areas of
125 design or construction to be performed as required by law. The
126 program management entity may retain necessary design
127 professionals selected under the process provided in s. 287.055.



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128 At the option of the board, the program management entity, after
129 having been selected, may be required to offer a guaranteed
130 maximum price or a guaranteed completion date, in which case the
131 program management entity must secure an appropriate surety bond
132 pursuant to s. 255.05 and must hold design and construction
133 subcontracts. The criteria for selecting a program management
134 entity shall not unfairly penalize an entity that has relevant
135 experience in the delivery of construction programs of similar
136 size and complexity by methods of delivery other than program
137 management.

138 Section 4. Paragraph (g) of subsection (2) of section
139 287.055, Florida Statutes, is amended to read:

140 287.055 Acquisition of professional architectural,
141 engineering, landscape architectural, or surveying and mapping
142 services; definitions; procedures; contingent fees prohibited;
143 penalties.—

144 (2) DEFINITIONS.—For purposes of this section:

145 (g) A "continuing contract" is a contract for professional
146 services entered into in accordance with all the procedures of
147 this act between an agency and a firm whereby the firm provides
148 professional services to the agency for projects in which
149 construction costs for each project under the contract do not
150 exceed \$1 million, for study activity when the fee for such
151 professional service does not exceed \$50,000 for each study
152 under the contract, or for work of a specified nature as
153 outlined in the contract required by the agency, with the
154 contract being for a fixed term or with no time limitation,
155 except that the contract must provide a termination clause.
156 Firms providing professional services under continuing contracts



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157 may ~~shall~~ not be required to bid against one another.

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160 ===== T I T L E A M E N D M E N T =====

161 And the title is amended as follows:

162 Delete line 14

163 and insert:

164 adopt rules; amending s. 255.103, F.S.; replacing the

165 term "local government" with "governmental entity";

166 defining the term "governmental entity"; authorizing

167 governmental entities to enter into continuing

168 contracts under certain circumstances; defining the

169 term "continuing contract"; amending s. 1013.45, F.S.;

170 revising provisions relating to contracting and

171 construction for educational facilities; amending s.

172 287.055, F.S.; clarifying the definition of

173 "continuing contract"; providing an effective date.