

1                   A bill to be entitled  
 2           An act relating to the procurement of architectural,  
 3           engineering, and other professional services by a  
 4           governmental agency or school board; amending s. 287.055,  
 5           F.S.; allowing compensation to be a considering factor  
 6           during the competitive selection process for professional  
 7           services; authorizing the agency or board to reopen  
 8           negotiations with a selected firm following termination of  
 9           negotiations with other firms; providing an effective  
 10          date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

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 14           Section 1. Subsections (4) and (5) of section 287.055,  
 15 Florida Statutes, are amended to read:

16           287.055 Acquisition of professional architectural,  
 17 engineering, landscape architectural, or surveying and mapping  
 18 services; definitions; procedures; contingent fees prohibited;  
 19 penalties.—

20           (4) COMPETITIVE SELECTION.—

21           (a) For each proposed project, the agency shall evaluate  
 22 current statements of qualifications and performance data on  
 23 file with the agency, together with those that may be submitted  
 24 by other firms regarding the proposed project, and shall conduct  
 25 discussions with, and may require public presentations by, no  
 26 fewer than three firms regarding their qualifications, approach  
 27 to the project, and ability to furnish the required services.

28           (b) The agency shall select in order of preference no

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29 fewer than three firms deemed to be the most highly qualified to  
30 perform the required services. In determining whether a firm is  
31 qualified, the agency shall consider such factors as the ability  
32 of professional personnel; whether a firm is a certified  
33 minority business enterprise; past performance; willingness to  
34 meet time and budget requirements; location; recent, current,  
35 and projected workloads of the firms; and the volume of work  
36 previously awarded to each firm by the agency, with the object  
37 of effecting an equitable distribution of contracts among  
38 qualified firms, provided such distribution does not violate the  
39 principle of selection of the most highly qualified firms. The  
40 agency may request, accept, and consider proposals for the  
41 compensation to be paid under the contract ~~only during~~  
42 ~~competitive negotiations under subsection (5).~~

43 (c) This subsection does not apply to a professional  
44 service contract for a project the basic construction cost of  
45 which is estimated by the agency to be not in excess of the  
46 threshold amount provided in s. 287.017 for CATEGORY FIVE or for  
47 a planning or study activity when the fee for professional  
48 services is not in excess of the threshold amount provided in s.  
49 287.017 for CATEGORY TWO. However, if, in using another  
50 procurement process, the majority of the compensation proposed  
51 by firms is in excess of the appropriate threshold amount, the  
52 agency shall reject all proposals and reinitiate the procurement  
53 pursuant to this subsection.

54 (d) ~~Nothing in~~ This section does not act shall be  
55 ~~construed to~~ prohibit a continuing contract between a firm and  
56 an agency.

57 (5) COMPETITIVE NEGOTIATION.—

58 (a) The agency shall negotiate a contract with the most  
59 qualified firm for professional services at compensation which  
60 the agency determines is fair, competitive, and reasonable. In  
61 making such determination, the agency shall conduct a detailed  
62 analysis of the cost of the professional services required in  
63 addition to considering their scope and complexity. For any  
64 lump-sum or cost-plus-a-fixed-fee professional service contract  
65 over the threshold amount provided in s. 287.017 for CATEGORY  
66 FOUR, the agency shall require the firm receiving the award to  
67 execute a truth-in-negotiation certificate stating that wage  
68 rates and other factual unit costs supporting the compensation  
69 are accurate, complete, and current at the time of contracting.  
70 Any professional service contract under which such a certificate  
71 is required must contain a provision that the original contract  
72 price and any additions thereto will be adjusted to exclude any  
73 significant sums by which the agency determines the contract  
74 price was increased due to inaccurate, incomplete, or noncurrent  
75 wage rates and other factual unit costs. All such contract  
76 adjustments must be made within 1 year following the end of the  
77 contract.

78 (b) Should the agency be unable to negotiate a  
79 satisfactory contract with the firm considered to be the most  
80 qualified at a price the agency determines to be fair,  
81 competitive, and reasonable, negotiations with that firm must be  
82 formally terminated. The agency shall then undertake  
83 negotiations with the second most qualified firm. Failing accord  
84 with the second most qualified firm, the agency must terminate

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85 negotiations. The agency may ~~shall~~ then undertake negotiations  
86 with the third most qualified firm. The agency may reopen  
87 negotiations with any selected firm upon terminating  
88 negotiations with another selected firm.

89 (c) Should the agency be unable to negotiate a  
90 satisfactory contract with any of the selected firms, the agency  
91 shall select additional firms in the order of their competence  
92 and qualification and continue negotiations in accordance with  
93 this subsection until an agreement is reached.

94 Section 2. This act shall take effect July 1, 2011.