

By Senator Bennett

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1 A bill to be entitled

2 An act relating to the procurement of professional
3 architectural, engineering, landscape architectural,
4 or surveying and mapping services; amending s.
5 287.055, F.S.; revising the definition of "continuing
6 contract" and defining "best value selection";
7 clarifying provisions with respect to selection of
8 firms by an agency under the competitive selection
9 process; providing that an agency has the right to
10 reject any or all submissions received in response to
11 a public announcement under the competitive selection
12 process; authorizing an agency to award contracts to
13 multiple firms under the competitive negotiation
14 process; providing for a best value selection process;
15 requiring agencies to adopt rules governing the use of
16 the process; providing minimum requirements with
17 respect to best value selection procedures; providing
18 an effective date.

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

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22 Section 1. Paragraph (g) of subsection (2) of section
23 287.055, Florida Statutes, is amended, and paragraph (m) is
24 added to that subsection, paragraph (b) of subsection (4) is
25 amended, and paragraph (e) is added to that subsection,
26 paragraph (d) is added to subsection (5), subsections (6)
27 through (11) are renumbered as subsections (7) through (12),
28 respectively, and a new subsection (6) is added to that section,
29 to read:

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30 287.055 Acquisition of professional architectural,
31 engineering, landscape architectural, or surveying and mapping
32 services; definitions; procedures; contingent fees prohibited;
33 penalties.—

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

35 (g) A "continuing contract" is a contract for professional
36 services entered into in accordance with all the procedures of
37 this act between an agency and a firm whereby the firm provides
38 professional services to the agency for projects in which the
39 estimated construction cost of each individual project under the
40 contract does not exceed \$2 million, for study activity if the
41 fee for professional services for each individual study under
42 the contract does not exceed \$200,000, or for work of a
43 specified nature as outlined in the contract required by the
44 agency, with the contract having being for a fixed term or with
45 no time limitation, except that the contract must provide a
46 termination clause. Firms providing professional services under
47 continuing contracts shall not be required to bid against one
48 another.

49 (m) "Best value selection" means the selection of a firm or
50 firms whose proposal provides the greatest overall benefit to an
51 agency in accordance with the requirements of a formal
52 solicitation.

53 (4) COMPETITIVE SELECTION.—

54 (b) The agency shall select in order of preference no fewer
55 than three firms deemed to be the most highly qualified to
56 perform the required services, except in instances where fewer
57 than three firms respond to the public announcement. In
58 determining whether a firm is qualified, the agency shall

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59 consider such factors as the ability of professional personnel;
60 whether a firm is a certified minority business enterprise; past
61 performance; willingness to meet time and budget requirements;
62 location; recent, current, and projected workloads of the firms;
63 and the volume of work previously awarded to each firm by the
64 agency, with the object of effecting an equitable distribution
65 of contracts among qualified firms, provided such distribution
66 does not violate the principle of selection of the most highly
67 qualified firms. The agency may request, accept, and consider
68 proposals for the compensation to be paid under the contract
69 only during competitive negotiations under subsection (5).

70 (e) The agency shall have the right to reject any or all
71 submissions received in response to the public announcement.

72 (5) COMPETITIVE NEGOTIATION.—

73 (d) The agency may, in its discretion, award contracts to
74 multiple firms.

75 (6) BEST VALUE SELECTION PROCESS.—

76 (a) An agency may, at its discretion, purchase professional
77 services using a best value selection process, subject to
78 requirements provided in this subsection. The agency shall make
79 such purchases in accordance with this chapter and rules
80 applicable to the agency.

81 (b) Each agency shall adopt rules governing the use of the
82 best value selection process in choosing a firm or firms.

83 Procedures for the use of the best value selection process must
84 include, at a minimum:

85 1. The preparation and distribution of a public
86 solicitation consistent with the requirements of subsection (3).
87 The public solicitation shall contain the criteria, procedures,

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88 and standards for the evaluation of proposals considered under
89 subparagraph 3.

90 2. The initial evaluation of proposals received in
91 accordance with the requirements of paragraph (4) (a).

92 3. A two-stage selection process that, at a minimum,
93 adheres to the following procedures and requirements:

94 a. Except as otherwise provided in this section, under the
95 initial stage of the selection process, competing firms shall be
96 evaluated using the criteria set forth in paragraph (4) (b) and
97 the agency shall select a firm or firms based on the
98 evaluations. Proposals for compensation to be paid under the
99 contract may not be solicited or accepted during this stage of
100 the process.

101 b. Under the second stage of the process, the firms
102 selected shall be asked to submit a compensation proposal for
103 the proposed work. The proposal shall be evaluated along with
104 the information obtained under sub-subparagraph a. and any other
105 information the agency chooses to request with the compensation
106 proposal to make a best value selection.

107 4. A requirement that the criterion pertaining to
108 compensation may not exceed 50 percent of the total weight of
109 the published evaluation criteria.

110 5. Authority of an agency head to negotiate with the best
111 firm available in the event of a declared state of emergency
112 pursuant to s. 252.36.

113 Section 2. This act shall take effect July 1, 2012.