

By Senator Soto

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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 the term
6 "continuing contract" and defining the term "best
7 value selection"; clarifying provisions with respect
8 to selection of firms by an agency under the
9 competitive selection process; providing that an
10 agency has the right to reject any or all submissions
11 received in response to a public announcement under
12 the competitive selection process; authorizing an
13 agency to award contracts to multiple firms under the
14 competitive negotiation process; providing for a best
15 value selection process; requiring agencies to adopt
16 rules governing the use of the process; providing
17 minimum requirements with respect to best value
18 selection procedures; providing an effective date.

19
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) of
25 that section is amended, and paragraph (e) is added to that
26 subsection, paragraph (d) is added to subsection (5) of that
27 section, present subsections (6) through (11) are renumbered as
28 subsections (7) through (12), respectively, and a new subsection
29 (6) is added to that section, 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" means ~~is~~ a contract for
36 professional services entered into in accordance with all the
37 procedures of this act between an agency and a firm whereby the
38 firm provides professional services to the agency for projects
39 in which the estimated construction cost of each individual
40 project under the contract does not exceed \$2 million, for study
41 activity if the fee for professional services for each
42 individual study under the contract does not exceed \$200,000, or
43 for work of a specified nature as outlined in the contract
44 required by the agency, with the contract having ~~being for a~~
45 ~~fixed term or with~~ no time limitation, except that the contract
46 must provide a termination clause. Firms providing professional
47 services under continuing contracts shall not be required to bid
48 against one 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 shall, at a minimum,
93 adhere 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 selection process.

101 b. Under the second stage of the selection process, the
102 firms selected shall be asked to submit a compensation proposal
103 for the proposed work. The proposal shall be evaluated along
104 with the information obtained under sub-subparagraph a. and any
105 other information the agency chooses to request with the
106 compensation 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, 2013.