

A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; revising an exemption from public records requirements for a financial statement that a governmental entity or agency requires a person to submit in order to respond to a competitive solicitation or as a term or condition of a contract; providing exceptions; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(1) AGENCY ADMINISTRATION.—

(c)

1. A ~~Any~~ financial statement reflecting a person's financial activities, which may include, but is not limited to, a balance sheet, income statement, or cash flow statement that a governmental entity or an agency requires a person prospective bidder to submit when in order to prequalify for bidding or for responding to a competitive solicitation or other public procurement, or as a term or condition of a contract, proposal

27 ~~for a road or any other public works project~~ is exempt from s.  
28 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
29 exemption does not apply to a financial statement submitted by a  
30 publicly traded corporation or nonprofit organization.

31 2. This paragraph is subject to the Open Government Sunset  
32 Review Act in accordance with s. 119.15 and shall stand repealed  
33 on October 2, 2019, unless reviewed and saved from repeal  
34 through reenactment by the Legislature.

35 Section 2. The Legislature finds that it is a public  
36 necessity that a financial statement submitted by a person in  
37 order to qualify for or reply to a competitive solicitation, or  
38 submitted as a term or condition of a contract, be made exempt  
39 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of  
40 the State Constitution. Many solicitations to provide products  
41 or services to governmental entities in the state require  
42 persons to submit a financial statement in order to qualify for  
43 bidding, or to enter into a subsequent contract. However, many  
44 innovative, qualified, responsible, and privately held companies  
45 keep their financial statements confidential and take extensive  
46 measures to prevent their disclosure. When a solicitation  
47 requires disclosure of a financial statement that is potentially  
48 subject to disclosure to the general public, these companies  
49 simply choose not to submit a proposal rather than risk  
50 disclosure. The result is a limited pool of proposers. The  
51 Legislature finds that holding this material exempt serves the  
52 following purposes:

53       (1) Preservation of the government's ability to obtain and  
54 examine the financial statement of a person seeking to conduct  
55 business with a governmental entity, when relevant, to prove  
56 that the person has the capability of delivering products or  
57 services as contemplated in the solicitation.

58       (2) Protection for persons required to furnish financial  
59 statements to the government by safeguarding them from the  
60 competitive disadvantage, or potential for fraudulent credit  
61 theft, that could result from disclosure.

62       (3) Assurance that the public receives the benefit of the  
63 largest possible pool of qualified, innovative, and responsible  
64 persons, including those who hold their financial statements  
65 confidential.

66       (4) Alignment of Florida law with federal law and the laws  
67 of other states that recognize the need for governmental  
68 entities to safeguard financial statements requested of persons  
69 responding to competitive solicitations.

70       Section 3. This act shall take effect July 1, 2014.