

By the Committee on Governmental Oversight and Accountability

585-01301-16

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1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 119.071, F.S., which
4 provides an exemption from public records requirements
5 for bids, proposals, or replies submitted to an agency
6 in response to a competitive solicitation; removing
7 the scheduled repeal of the exemption; amending s.
8 286.0113, F.S., which provides an exemption from
9 public meetings requirements for portions of meetings
10 in which a vendor participates in a negotiation, makes
11 an oral presentation, or answers questions as part of
12 a competitive solicitation or in which negotiation
13 strategies are discussed, and which provides an
14 exemption from public records requirements for the
15 recording of, and any records presented at, exempt
16 portions of such meetings; removing the scheduled
17 repeal of the exemptions; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Paragraph (b) of subsection (1) of section
22 119.071, Florida Statutes, is amended to read:

23 119.071 General exemptions from inspection or copying of
24 public records.—

25 (1) AGENCY ADMINISTRATION.—

26 (b)1. For purposes of this paragraph, "competitive
27 solicitation" means the process of requesting and receiving
28 sealed bids, proposals, or replies in accordance with the terms
29 of a competitive process, regardless of the method of

585-01301-16

20167030__

30 procurement.

31 2. Sealed bids, proposals, or replies received by an agency
32 pursuant to a competitive solicitation are exempt from s.
33 119.07(1) and s. 24(a), Art. I of the State Constitution until
34 such time as the agency provides notice of an intended decision
35 or until 30 days after opening the bids, proposals, or final
36 replies, whichever is earlier.

37 3. If an agency rejects all bids, proposals, or replies
38 submitted in response to a competitive solicitation and the
39 agency concurrently provides notice of its intent to reissue the
40 competitive solicitation, the rejected bids, proposals, or
41 replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of
42 the State Constitution until such time as the agency provides
43 notice of an intended decision concerning the reissued
44 competitive solicitation or until the agency withdraws the
45 reissued competitive solicitation. A bid, proposal, or reply is
46 not exempt for longer than 12 months after the initial agency
47 notice rejecting all bids, proposals, or replies.

48 ~~4. This paragraph is subject to the Open Government Sunset~~
49 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
50 ~~on October 2, 2016, unless reviewed and saved from repeal~~
51 ~~through reenactment by the Legislature.~~

52 Section 2. Subsection (2) of section 286.0113, Florida
53 Statutes, is amended to read:

54 286.0113 General exemptions from public meetings.—

55 (2) (a) For purposes of this subsection:

56 1. "Competitive solicitation" means the process of
57 requesting and receiving sealed bids, proposals, or replies in
58 accordance with the terms of a competitive process, regardless

585-01301-16

20167030__

59 of the method of procurement.

60 2. "Team" means a group of members established by an agency
61 for the purpose of conducting negotiations as part of a
62 competitive solicitation.

63 (b)1. Any portion of a meeting at which a negotiation with
64 a vendor is conducted pursuant to a competitive solicitation, at
65 which a vendor makes an oral presentation as part of a
66 competitive solicitation, or at which a vendor answers questions
67 as part of a competitive solicitation is exempt from s. 286.011
68 and s. 24(b), Art. I of the State Constitution.

69 2. Any portion of a team meeting at which negotiation
70 strategies are discussed is exempt from s. 286.011 and s. 24(b),
71 Art. I of the State Constitution.

72 (c)1. A complete recording shall be made of any portion of
73 an exempt meeting. No portion of the exempt meeting may be held
74 off the record.

75 2. The recording of, and any records presented at, the
76 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I
77 of the State Constitution until such time as the agency provides
78 notice of an intended decision or until 30 days after opening
79 the bids, proposals, or final replies, whichever occurs earlier.

80 3. If the agency rejects all bids, proposals, or replies
81 and concurrently provides notice of its intent to reissue a
82 competitive solicitation, the recording and any records
83 presented at the exempt meeting remain exempt from s. 119.07(1)
84 and s. 24(a), Art. I of the State Constitution until such time
85 as the agency provides notice of an intended decision concerning
86 the reissued competitive solicitation or until the agency
87 withdraws the reissued competitive solicitation. A recording and

585-01301-16

20167030__

88 any records presented at an exempt meeting are not exempt for
89 longer than 12 months after the initial agency notice rejecting
90 all bids, proposals, or replies.

91 ~~(d) This subsection is subject to the Open Government~~
92 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
93 ~~repealed on October 2, 2016, unless reviewed and saved from~~
94 ~~repeal through reenactment by the Legislature.~~

95 Section 3. This act shall take effect October 1, 2016.