

26 (3) Bidding documents or other request for proposal issued
27 for bids by a local governmental entity, or any public contract
28 entered into between a local governmental entity and a
29 contractor shall disclose each permit or fee which the
30 contractor will have to pay before or during construction, and
31 ~~shall include~~ the dollar amount or the percentage method or the
32 unit method of all permits or fees which may be required by the
33 local government as a part of the contract, and a listing of all
34 other governmental entities that may have additional permits or
35 fees generated by the project. If the request for proposal does
36 not require the response to include a final fixed price, the
37 local governmental entity is not required to disclose any fees
38 or assessments in the request for proposal. However, at least 10
39 days prior to requiring the contractor to submit a final fixed
40 price for the project, the local governmental entity shall make
41 the disclosures required in this section. Any of the local
42 governmental entity's permits or fees that ~~which~~ are not
43 disclosed in the bidding documents, other request for proposal,
44 or a contract between a local government and a contractor shall
45 not be assessed or collected after the contract is let. No local
46 government shall halt construction under any public contract or
47 delay completion of the contract in order to collect any permits
48 or fees which were not provided for or specified in the bidding
49 documents, other request for proposal, or the contract.

50 Section 2. Subsection (1) of section 255.20, Florida

51 Statutes, is amended to read:

52 255.20 Local bids and contracts for public construction
53 works; specification of state-produced lumber.—

54 (1) A county, municipality, special district as defined in
55 chapter 189, or other political subdivision of the state seeking
56 to construct or improve a public building, structure, or other
57 public construction works must competitively award to an
58 appropriately licensed contractor each project that is estimated
59 ~~in accordance with generally accepted cost-accounting principles~~
60 to cost more than \$300,000. For electrical work, the local
61 government must competitively award to an appropriately licensed
62 contractor each project that is estimated ~~in accordance with~~
63 ~~generally accepted cost-accounting principles~~ to cost more than
64 \$75,000. As used in this section, the term "competitively award"
65 means to award contracts based on the submission of sealed bids,
66 proposals submitted in response to a request for proposal,
67 proposals submitted in response to a request for qualifications,
68 or proposals submitted for competitive negotiation. This
69 subsection expressly allows contracts for construction
70 management services, design/build contracts, continuation
71 contracts based on unit prices, and any other contract
72 arrangement with a private sector contractor permitted by any
73 applicable municipal or county ordinance, by district
74 resolution, or by state law. For purposes of this section, cost
75 includes employee compensation and benefits ~~the cost of all~~

76 ~~labor~~, except inmate labor, ~~and~~ the cost of direct equipment and
77 materials to be used in the construction of the project
78 including materials purchased by the local government, and other
79 direct costs, plus a factor of 20 percent for management,
80 overhead, and other indirect costs. Subject to the provisions of
81 subsection (3), the county, municipality, special district, or
82 other political subdivision may establish, by municipal or
83 county ordinance or special district resolution, procedures for
84 conducting the bidding process.

85 (a) Notwithstanding any other law, a governmental entity
86 seeking to construct or improve bridges, roads, streets,
87 highways, or railroads, and services incidental thereto, at a
88 cost in excess of \$250,000 may require that persons interested
89 in performing work under contract first be certified or
90 qualified to perform such work. A contractor may be considered
91 ineligible to bid if the contractor is behind by 10 percent or
92 more on completing an approved progress schedule for the
93 governmental entity at the time of advertising the work. A
94 prequalified contractor considered eligible by the Department of
95 Transportation to bid to perform the type of work described
96 under the contract is presumed to be qualified to perform the
97 work described. The governmental entity may provide an appeal
98 process to overcome that presumption with de novo review based
99 on the record below to the circuit court.

100 (b) For contractors who are not prequalified by the

101 Department of Transportation, the governmental entity shall
102 publish prequalification criteria and procedures prior to
103 advertisement or notice of solicitation. Such publications must
104 include notice of a public hearing for comment on such criteria
105 and procedures prior to adoption. The procedures must provide
106 for an appeal process within the authority for making objections
107 to the prequalification process with de novo review based on the
108 record below to the circuit court within 30 days.

109 (c) The provisions of this subsection do not apply:

110 1. If the project is undertaken to replace, reconstruct,
111 or repair an existing public building, structure, or other
112 public construction works damaged or destroyed by a sudden
113 unexpected turn of events such as an act of God, riot, fire,
114 flood, accident, or other urgent circumstances, and such damage
115 or destruction creates:

116 a. An immediate danger to the public health or safety;

117 b. Other loss to public or private property which requires
118 emergency government action; or

119 c. An interruption of an essential governmental service.

120 2. If, after notice by publication in accordance with the
121 applicable ordinance or resolution, the governmental entity does
122 not receive any responsive bids or proposals.

123 3. To construction, remodeling, repair, or improvement to
124 a public electric or gas utility system if such work on the
125 public utility system is performed by personnel of the system.

126 4. To construction, remodeling, repair, or improvement by
 127 a utility commission whose major contracts are to construct and
 128 operate a public electric utility system.

129 5. If the project is undertaken as repair or maintenance
 130 of an existing public facility. For the purposes of this
 131 paragraph, the term "repair" means a corrective action to
 132 restore an existing public facility to a safe and functional
 133 condition and the term "maintenance" means a preventive or
 134 corrective action to maintain an existing public facility in an
 135 operational state or to preserve the facility from failure or
 136 decline. Repair or maintenance includes activities that are
 137 necessarily incidental to repairing or maintaining the facility.
 138 Repair or maintenance does not include the construction of any
 139 new building, structure, or other public construction works or
 140 any substantial addition, extension, or upgrade to an existing
 141 public facility. Such additions, extensions, or upgrades shall
 142 be considered substantial if the estimated cost of the
 143 additions, extensions, or upgrades included as part of the
 144 repair or maintenance project exceeds the threshold amount in
 145 subsection (1) and exceeds 20 percent of the estimated total
 146 cost of the repair or maintenance project ~~using generally~~
 147 ~~accepted cost-accounting principles that~~ fully accounting
 148 ~~account~~ for all costs associated with performing and completing
 149 the work, including employee compensation and benefits, the cost
 150 of direct materials to be used in the construction of the

151 project including materials purchased by the local government,
152 and other direct costs, plus a factor of 20 percent for
153 management, overhead, and other indirect costs ~~equipment cost~~
154 ~~and maintenance, insurance costs, and materials.~~ An addition,
155 extension, or upgrade shall not be considered substantial if it
156 is undertaken pursuant to the conditions specified in
157 subparagraph 1. Repair and maintenance projects and any related
158 additions, extensions, or upgrades may not be divided into
159 multiple projects for the purpose of evading the requirements of
160 this subparagraph.

161 6. If the project is undertaken exclusively as part of a
162 public educational program.

163 7. If the funding source of the project will be diminished
164 or lost because the time required to competitively award the
165 project after the funds become available exceeds the time within
166 which the funding source must be spent.

167 8. If the local government competitively awarded a project
168 to a private sector contractor and the contractor abandoned the
169 project before completion or the local government terminated the
170 contract.

171 9. If the governing board of the local government complies
172 with all of the requirements of this subparagraph, conducts a
173 public meeting under s. 286.011 after public notice, and finds
174 by majority vote of the governing board that it is in the
175 public's best interest to perform the project using its own

176 services, employees, and equipment. The public notice must be
177 published at least 21 days before the date of the public meeting
178 at which the governing board takes final action. The notice must
179 identify the project, the components and scope of the work, and
180 the estimated cost of the project ~~using generally accepted cost-~~
181 ~~accounting principles that~~ fully accounting ~~account~~ for all
182 costs associated with performing and completing the work,
183 including employee compensation and benefits, the cost of direct
184 materials to be used in the construction of the project
185 including materials purchased by the local government, and other
186 direct costs, plus a factor of 20 percent for management,
187 overhead, and other indirect costs ~~equipment cost and~~
188 ~~maintenance, insurance costs, and materials.~~ The notice must
189 specify that the purpose for the public meeting is to consider
190 whether it is in the public's best interest to perform the
191 project using the local government's own services, employees,
192 and equipment. Upon publication of the public notice and for 21
193 days thereafter, the local government shall make available for
194 public inspection, during normal business hours and at a
195 location specified in the public notice, a detailed itemization
196 of each component of the estimated cost of the project and
197 documentation explaining the methodology used to arrive at the
198 estimated cost. At the public meeting, any qualified contractor
199 or vendor who could have been awarded the project had the
200 project been competitively bid shall be provided with a

201 reasonable opportunity to present evidence to the governing
202 board regarding the project and the accuracy of the local
203 government's estimated cost of the project. In deciding whether
204 it is in the public's best interest for the local government to
205 perform a project using its own services, employees, and
206 equipment, the governing board must consider the estimated cost
207 of the project fully accounting for all costs associated with
208 performing and completing the work, including employee
209 compensation and benefits, the cost of direct materials to be
210 used in the construction of the project including materials
211 purchased by the local government, and other direct costs, plus
212 a factor of 20 percent for management, overhead, and other
213 indirect costs, and the accuracy of the estimated cost in light
214 of any other information that may be presented at the public
215 meeting and whether the project requires an increase in the
216 number of government employees or an increase in capital
217 expenditures for public facilities, equipment, or other capital
218 assets. The local government may further consider the impact on
219 local economic development, the impact on small and minority
220 business owners, the impact on state and local tax revenues,
221 whether the private sector contractors provide health insurance
222 and other benefits equivalent to those provided by the local
223 government, and any other factor relevant to what is in the
224 public's best interest. A report summarizing completed projects
225 constructed by the local government pursuant to this subsection

226 shall be publicly reviewed each year by the governing body of
227 the local government. The report shall detail the estimated
228 costs and the actual costs of the projects constructed by the
229 local government pursuant to this subsection. The report shall
230 be made available for review by the public. The Auditor General
231 shall review the report as part of his or her audits of local
232 governments.

233 10. If the governing board of the local government
234 determines upon consideration of specific substantive criteria
235 that it is in the best interest of the local government to award
236 the project to an appropriately licensed private sector
237 contractor pursuant to administrative procedures established by
238 and expressly set forth in a charter, ordinance, or resolution
239 of the local government adopted before July 1, 1994. The
240 criteria and procedures must be set out in the charter,
241 ordinance, or resolution and must be applied uniformly by the
242 local government to avoid awarding a project in an arbitrary or
243 capricious manner. This exception applies only if all of the
244 following occur:

245 a. The governing board of the local government, after
246 public notice, conducts a public meeting under s. 286.011 and
247 finds by a two-thirds vote of the governing board that it is in
248 the public's best interest to award the project according to the
249 criteria and procedures established by charter, ordinance, or
250 resolution. The public notice must be published at least 14 days

251 before the date of the public meeting at which the governing
252 board takes final action. The notice must identify the project,
253 the estimated cost of the project, and specify that the purpose
254 for the public meeting is to consider whether it is in the
255 public's best interest to award the project using the criteria
256 and procedures permitted by the preexisting charter, ordinance,
257 or resolution.

258 b. The project is to be awarded by any method other than a
259 competitive selection process, and the governing board finds
260 evidence that:

261 (I) There is one appropriately licensed contractor who is
262 uniquely qualified to undertake the project because that
263 contractor is currently under contract to perform work that is
264 affiliated with the project; or

265 (II) The time to competitively award the project will
266 jeopardize the funding for the project, materially increase the
267 cost of the project, or create an undue hardship on the public
268 health, safety, or welfare.

269 c. The project is to be awarded by any method other than a
270 competitive selection process, and the published notice clearly
271 specifies the ordinance or resolution by which the private
272 sector contractor will be selected and the criteria to be
273 considered.

274 d. The project is to be awarded by a method other than a
275 competitive selection process, and the architect or engineer of

276 record has provided a written recommendation that the project be
277 awarded to the private sector contractor without competitive
278 selection, and the consideration by, and the justification of,
279 the government body are documented, in writing, in the project
280 file and are presented to the governing board prior to the
281 approval required in this paragraph.

282 11. To projects subject to chapter 336.

283 (d) If the project:

284 1. Is to be awarded based on price, the contract must be
285 awarded to the lowest qualified and responsive bidder in
286 accordance with the applicable county or municipal ordinance or
287 district resolution and in accordance with the applicable
288 contract documents. The county, municipality, or special
289 district may reserve the right to reject all bids and to rebid
290 the project, or elect not to proceed with the project. This
291 subsection is not intended to restrict the rights of any local
292 government to reject the low bid of a nonqualified or
293 nonresponsive bidder and to award the contract to any other
294 qualified and responsive bidder in accordance with the standards
295 and procedures of any applicable county or municipal ordinance
296 or any resolution of a special district.

297 2. Uses a request for proposal or a request for
298 qualifications, the request must be publicly advertised and the
299 contract must be awarded in accordance with the applicable local
300 ordinances.

301 3. Is subject to competitive negotiations, the contract
302 must be awarded in accordance with s. 287.055.

303 (e) If a construction project greater than \$300,000, or
304 \$75,000 for electrical work, is started after October 1, 1999,
305 is to be performed by a local government using its own employees
306 in a county or municipality that issues registered contractor
307 licenses, and the project would require a contractor licensed
308 under chapter 489 if performed by a private sector contractor,
309 the local government must use a person appropriately registered
310 or certified under chapter 489 to supervise the work.

311 (f) If a construction project greater than \$300,000, or
312 \$75,000 for electrical work, is started after October 1, 1999,
313 is to be performed by a local government using its own employees
314 in a county that does not issue registered contractor licenses,
315 and the project would require a contractor licensed under
316 chapter 489 if performed by a private sector contractor, the
317 local government must use a person appropriately registered or
318 certified under chapter 489 or a person appropriately licensed
319 under chapter 471 to supervise the work.

320 (g) Projects performed by a local government using its own
321 services and employees must be inspected in the same manner
322 required for work performed by private sector contractors.

323 (h) A construction project provided for in this subsection
324 may not be divided into more than one project for the purpose of
325 evading this subsection.

326 (i) This subsection does not preempt the requirements of
327 any small-business or disadvantaged-business enterprise program
328 or any local-preference ordinance.

329 (j) A county, municipality, special district as defined in
330 s. 189.012, or any other political subdivision of the state that
331 owns or operates a public-use airport as defined in s. 332.004
332 is exempt from this section when performing repairs or
333 maintenance on the airport's buildings, structures, or public
334 construction works using the local government's own services,
335 employees, and equipment.

336 (k) A local government that owns or operates a port
337 identified in s. 403.021(9)(b) is exempt from this section when
338 performing repairs or maintenance on the port's buildings,
339 structures, or public construction works using the local
340 government's own services, employees, and equipment.

341 (l) A local government that owns or operates a public
342 transit system as defined in s. 343.52, a public transportation
343 system as defined in s. 343.62, or a mass transit system
344 described in s. 349.04(1)(b) is exempt from this section when
345 performing repairs or maintenance on the buildings, structures,
346 or public construction works of the public transit system,
347 public transportation system, or mass transit system using the
348 local government's own services, employees, and equipment.

349 (m) Any contractor may be considered ineligible to bid by
350 the governmental entity if the contractor has been found guilty

351 by a court of any violation of federal labor or employment tax
352 laws regarding subjects such as safety, tax withholding,
353 workers' compensation, reemployment assistance or unemployment
354 tax, social security and Medicare tax, wage or hour, or
355 prevailing rate laws within the past 5 years.

356 Section 3. Subsection (4) of section 336.41, Florida
357 Statutes, is amended to read:

358 336.41 Counties; employing labor and providing road
359 equipment; accounting; when competitive bidding required.—

360 (4) All construction and reconstruction of roads and
361 bridges, including resurfacing, full scale mineral seal coating,
362 and major bridge and bridge system repairs, to be performed
363 utilizing the proceeds of the 80-percent portion of the surplus
364 of the constitutional gas tax shall be let to contract to the
365 lowest responsible bidder by competitive bid, except for:

366 (a) Construction and maintenance in emergency situations,
367 and

368 (b) In addition to emergency work, construction and
369 reconstruction, including resurfacing, mineral seal coating, and
370 bridge repairs, having a total cumulative annual value not to
371 exceed 5 percent of its 80-percent portion of the constitutional
372 gas tax or \$400,000, whichever is greater, and

373 (c) Construction of sidewalks, curbing, accessibility
374 ramps, or appurtenances incidental to roads and bridges if each
375 project is estimated ~~in accordance with generally accepted cost-~~

376 ~~accounting principles~~ to have total construction project costs
377 of less than \$400,000 or as adjusted by the percentage change in
378 the Construction Cost Index from January 1, 2008,
379
380 for which the county may utilize its own forces. Estimated total
381 construction project costs must include all costs associated
382 with performing and completing the work, including employee
383 compensation and benefits, the cost of direct materials to be
384 used in the construction of the project including materials
385 purchased by the local government, and other direct costs, plus
386 a factor of 20 percent for management, overhead, and other
387 indirect costs. However, if, after proper advertising, no bids
388 are received by a county for a specific project, the county may
389 use its own forces to construct the project, notwithstanding the
390 limitation of this subsection. Nothing in this section shall
391 prevent the county from performing routine maintenance as
392 authorized by law.

393 Section 4. This act shall take effect July 1, 2020.