

1                                   A bill to be entitled  
 2           An act relating to continuing contracts; amending s.  
 3           255.103, F.S.; revising the maximum estimated  
 4           construction cost of construction projects for which a  
 5           governmental entity may enter into a continuing  
 6           contract; requiring the Department of Management  
 7           Services, beginning on a specified date and annually  
 8           thereafter, to adjust the maximum amount allowed under  
 9           specified contracts using a specified index and  
 10          publish the adjusted amount on the department's  
 11          website; amending s. 287.055, F.S.; revising the  
 12          definition of the term "continuing contract" to  
 13          increase the maximum dollar value of such contract and  
 14          to require the department, beginning on a specified  
 15          date and annually thereafter, to adjust the maximum  
 16          amount allowed under such contracts using a specified  
 17          index and publish the adjusted amount on the  
 18          department's website; providing an effective date.

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

21  
 22           Section 1. Subsection (4) of section 255.103, Florida  
 23           Statutes, is amended, and subsections (2) and (3) of that  
 24           section are republished, to read:

25           255.103 Construction management or program management

26 | entities.—

27 |       (2) A governmental entity may select a construction  
28 | management entity, pursuant to the process provided by s.  
29 | 287.055, which is to be responsible for construction project  
30 | scheduling and coordination in both preconstruction and  
31 | construction phases and generally responsible for the  
32 | successful, timely, and economical completion of the  
33 | construction project. The construction management entity must  
34 | consist of or contract with licensed or registered professionals  
35 | for the specific fields or areas of construction to be  
36 | performed, as required by law. The construction management  
37 | entity may retain necessary design professionals selected under  
38 | the process provided in s. 287.055. At the option of the  
39 | governmental entity, the construction management entity, after  
40 | having been selected and after competitive negotiations, may be  
41 | required to offer a guaranteed maximum price and a guaranteed  
42 | completion date or a lump-sum price and a guaranteed completion  
43 | date, in which case, the construction management entity must  
44 | secure an appropriate surety bond pursuant to s. 255.05 and must  
45 | hold construction subcontracts. If a project, as defined in s.  
46 | 287.055(2)(f), solicited by a governmental entity under the  
47 | process provided in s. 287.055 includes a grouping of  
48 | substantially similar construction, rehabilitation, or  
49 | renovation activities as permitted under s. 287.055(2)(f), the  
50 | governmental entity, after competitive negotiations, may require

51 the construction management entity to provide for a separate  
52 guaranteed maximum price or a separate lump-sum price and a  
53 separate guaranteed completion date for each grouping of  
54 substantially similar construction, rehabilitation, or  
55 renovation activities included within the project.

56 (3) A governmental entity may select a program management  
57 entity, pursuant to the process provided by s. 287.055, which is  
58 to be responsible for schedule control, cost control, and  
59 coordination in providing or procuring planning, design, and  
60 construction services. The program management entity must  
61 consist of or contract with licensed or registered professionals  
62 for the specific areas of design or construction to be performed  
63 as required by law. The program management entity may retain  
64 necessary design professionals selected under the process  
65 provided in s. 287.055. At the option of the governmental  
66 entity, the program management entity, after having been  
67 selected and after competitive negotiations, may be required to  
68 offer a guaranteed maximum price and a guaranteed completion  
69 date or a lump-sum price and guaranteed completion date, in  
70 which case the program management entity must secure an  
71 appropriate surety bond pursuant to s. 255.05 and must hold  
72 design and construction subcontracts. If a project, as defined  
73 in s. 287.055(2)(f), solicited by a governmental entity under  
74 the process provided in s. 287.055 includes a grouping of  
75 substantially similar construction, rehabilitation, or

76 renovation activities as permitted under s. 287.055(2)(f), the  
77 governmental entity, after competitive negotiations, may require  
78 the program management entity to provide for a separate  
79 guaranteed maximum price or a lump-sum price and a separate  
80 guaranteed completion date for each grouping of substantially  
81 similar construction, rehabilitation, or renovation activities  
82 included within the project.

83 (4) A governmental entity's authority under subsections  
84 (2) and (3) includes entering into a continuing contract for  
85 construction projects, pursuant to the process provided in s.  
86 287.055, in which the estimated construction cost of each  
87 individual project under the contract does not exceed \$7.5 ~~\$4~~  
88 million. Beginning July 1, 2025, and each July 1 thereafter, the  
89 Department of Management Services shall adjust the maximum  
90 amount allowed on the preceding June 30 for each individual  
91 project in a continuing contract by using the change in the  
92 June-to-June Consumer Price Index for All Urban Consumers issued  
93 by the Bureau of Labor Statistics of the United States  
94 Department of Labor. The Department of Management Services shall  
95 publish the adjusted amount on its website. For purposes of this  
96 subsection, the term "continuing contract" means a contract with  
97 a construction management or program management entity for work  
98 during a defined period on construction projects described by  
99 type which may or may not be identified at the time of entering  
100 into the contract.

101 Section 2. Paragraph (g) of subsection (2) of section  
 102 287.055, Florida Statutes, is amended to read:

103 287.055 Acquisition of professional architectural,  
 104 engineering, landscape architectural, or surveying and mapping  
 105 services; definitions; procedures; contingent fees prohibited;  
 106 penalties.—

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

108 (g)1. A "continuing contract" is a contract for any of the  
 109 following:

110 a. Professional services entered into in accordance with  
 111 all the procedures of this act between an agency and a firm  
 112 whereby the firm provides professional services to the agency  
 113 for projects in which the estimated construction cost of each  
 114 individual project under the contract does not exceed \$7.5 ~~\$4~~  
 115 million. Beginning July 1, 2025, and each July 1 thereafter, the  
 116 department shall adjust the maximum amount allowed on the  
 117 preceding June 30 for each individual project in a continuing  
 118 contract by using the change in the June-to-June Consumer Price  
 119 Index for All Urban Consumers issued by the Bureau of Labor  
 120 Statistics of the United States Department of Labor. The  
 121 department shall publish the adjusted amount on its website;~~τ~~

122 b. ~~for~~ Study activity if the fee for professional services  
 123 for each individual study under the contract does not exceed  
 124 \$500,000;~~τ~~ or

125 c. ~~for~~ Work of a specified nature as outlined in the

CS/CS/CS/HB 149

2024

126 | contract required by the agency, with the contract being for a  
127 | fixed term or with no time limitation except that the contract  
128 | must provide a termination clause.

129 |       2. Firms providing professional services under continuing  
130 | contracts may ~~shall~~ not be required to bid against one another.

131 |       Section 3. This act shall take effect July 1, 2024.