

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for financial information a
 5 prospective bidder must submit to an agency to
 6 prequalify for bidding or for responding to a proposal
 7 for certain projects; providing for future legislative
 8 review and repeal of the exemption; amending s.
 9 337.14, F.S.; providing an exemption from public
 10 records requirements for certain financial information
 11 required by administrative rule of the Department of
 12 Transportation for qualification to bid; providing for
 13 future legislative review and repeal of the exemption;
 14 providing a statement of public necessity; providing
 15 an effective date.

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

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 19 Section 1. Paragraph (c) of subsection (1) of section
 20 119.071, Florida Statutes, is amended to read:

21 119.071 General exemptions from inspection or copying of
 22 public records.—

23 (1) AGENCY ADMINISTRATION.—

24 (c) Any financial statement or other financial information
 25 that an agency requires a prospective bidder to submit in order

26 | to prequalify for bidding or for responding to a proposal for a
27 | 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 | paragraph is subject to the Open Government Sunset Review Act in
30 | accordance with s. 119.15 and shall stand repealed on October 2,
31 | 2029, unless reviewed and saved from repeal through reenactment
32 | by the Legislature.

33 | Section 2. Subsection (1) of section 337.14, Florida
34 | Statutes, is amended to read:

35 | 337.14 Application for qualification; certificate of
36 | qualification; restrictions; request for hearing.—

37 | (1) Any contractor desiring to bid for the performance of
38 | any construction contract in excess of \$250,000 which the
39 | department proposes to let must first be certified by the
40 | department as qualified pursuant to this section and rules of
41 | the department. The rules of the department must address the
42 | qualification of contractors to bid on construction contracts in
43 | excess of \$250,000 and must include requirements with respect to
44 | the equipment, past record, experience, financial resources, and
45 | organizational personnel of the applying contractor which are
46 | necessary to perform the specific class of work for which the
47 | contractor seeks certification. Any contractor who desires to
48 | bid on contracts in excess of \$50 million and who is not
49 | qualified and in good standing with the department as of January
50 | 1, 2019, must first be certified by the department as qualified

51 and must have satisfactorily completed two projects, each in
52 excess of \$15 million, for the department or for any other state
53 department of transportation. The department may limit the
54 dollar amount of any contract upon which a contractor is
55 qualified to bid or the aggregate total dollar volume of
56 contracts such contractor is allowed to have under contract at
57 any one time. Each applying contractor seeking qualification to
58 bid on construction contracts in excess of \$250,000 shall
59 furnish the department a statement under oath, on such forms as
60 the department may prescribe, setting forth detailed information
61 as required on the application. Each application for
62 certification must be accompanied by audited, certified
63 financial statements prepared in accordance with generally
64 accepted accounting principles and auditing standards by a
65 certified public accountant licensed in this state or another
66 state. The audited, certified financial statements must be for
67 the applying contractor and must have been prepared within the
68 immediately preceding 12 months. The department may not consider
69 any financial information of the parent entity of the applying
70 contractor, if any. The department may not certify as qualified
71 any applying contractor who fails to submit the audited,
72 certified financial statements required by this subsection. If
73 the application or the annual financial statement shows the
74 financial condition of the applying contractor more than 4
75 months before the date on which the application is received by

76 | the department, the applicant must also submit interim audited,
77 | certified financial statements prepared in accordance with
78 | generally accepted accounting principles and auditing standards
79 | by a certified public accountant licensed in this state or
80 | another state. The interim financial statements must cover the
81 | period from the end date of the annual statement and must show
82 | the financial condition of the applying contractor no more than
83 | 4 months before the date that the interim financial statements
84 | are received by the department. However, upon the request of the
85 | applying contractor, an application and accompanying annual or
86 | interim financial statement received by the department within 15
87 | days after either 4-month period under this subsection shall be
88 | considered timely. An applying contractor desiring to bid
89 | exclusively for the performance of construction contracts with
90 | proposed budget estimates of less than \$2 million may submit
91 | reviewed annual or reviewed interim financial statements
92 | prepared by a certified public accountant. The information
93 | required by this subsection or by any department administrative
94 | rule implementing this subsection is confidential and exempt
95 | from s. 119.07(1). The department shall act upon the application
96 | for qualification within 30 days after the department determines
97 | that the application is complete. The department may waive the
98 | requirements of this subsection for projects having a contract
99 | price of \$500,000 or less if the department determines that the
100 | project is of a noncritical nature and the waiver will not

101 | endanger public health, safety, or property. This subsection is
102 | subject to the Open Government Sunset Review Act in accordance
103 | with s. 119.15 and shall stand repealed on October 2, 2029,
104 | unless reviewed and saved from repeal through reenactment by the
105 | Legislature.

106 | Section 3. The Legislature finds that it is a public
107 | necessity that the financial information required by any
108 | department's administrative rule which prospective bidders are
109 | required to submit in order to prequalify for bidding or in
110 | response to a proposal for any public works project be made
111 | exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
112 | Article I of the State Constitution. These records may contain
113 | confidential information related to bidders' financial details
114 | and work product which may be used by competitors to gain an
115 | unfair advantage against other bidders of public works projects.
116 | Subjecting such records to public records requirements may
117 | discourage otherwise qualified bidders from placing bids on
118 | vital public works projects.

119 | Section 4. This act shall take effect July 1, 2024.