

By Senator DiCeglie

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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; amending s. 287.055, F.S.; revising the
7 definition of the term "continuing contract";
8 requiring the Department of Transportation, for
9 specified testing continuing contracts, to select a
10 certain number of qualified firms and assign such
11 testing in a specified manner; providing an effective
12 date.

13
14 Be It Enacted by the Legislature of the State of Florida:
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16 Section 1. Subsection (4) of section 255.103, Florida
17 Statutes, is amended, and subsections (2) and (3) of that
18 section are republished, to read:

19 255.103 Construction management or program management
20 entities.—

21 (2) A governmental entity may select a construction
22 management entity, pursuant to the process provided by s.
23 287.055, which is to be responsible for construction project
24 scheduling and coordination in both preconstruction and
25 construction phases and generally responsible for the
26 successful, timely, and economical completion of the
27 construction project. The construction management entity must
28 consist of or contract with licensed or registered professionals
29 for the specific fields or areas of construction to be

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30 performed, as required by law. The construction management
31 entity may retain necessary design professionals selected under
32 the process provided in s. 287.055. At the option of the
33 governmental entity, the construction management entity, after
34 having been selected and after competitive negotiations, may be
35 required to offer a guaranteed maximum price and a guaranteed
36 completion date or a lump-sum price and a guaranteed completion
37 date, in which case, the construction management entity must
38 secure an appropriate surety bond pursuant to s. 255.05 and must
39 hold construction subcontracts. If a project, as defined in s.
40 287.055(2)(f), solicited by a governmental entity under the
41 process provided in s. 287.055 includes a grouping of
42 substantially similar construction, rehabilitation, or
43 renovation activities as permitted under s. 287.055(2)(f), the
44 governmental entity, after competitive negotiations, may require
45 the construction management entity to provide for a separate
46 guaranteed maximum price or a separate lump-sum price and a
47 separate guaranteed completion date for each grouping of
48 substantially similar construction, rehabilitation, or
49 renovation activities included within the project.

50 (3) A governmental entity may select a program management
51 entity, pursuant to the process provided by s. 287.055, which is
52 to be responsible for schedule control, cost control, and
53 coordination in providing or procuring planning, design, and
54 construction services. The program management entity must
55 consist of or contract with licensed or registered professionals
56 for the specific areas of design or construction to be performed
57 as required by law. The program management entity may retain
58 necessary design professionals selected under the process

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59 provided in s. 287.055. At the option of the governmental
60 entity, the program management entity, after having been
61 selected and after competitive negotiations, may be required to
62 offer a guaranteed maximum price and a guaranteed completion
63 date or a lump-sum price and guaranteed completion date, in
64 which case the program management entity must secure an
65 appropriate surety bond pursuant to s. 255.05 and must hold
66 design and construction subcontracts. If a project, as defined
67 in s. 287.055(2)(f), solicited by a governmental entity under
68 the process provided in s. 287.055 includes a grouping of
69 substantially similar construction, rehabilitation, or
70 renovation activities as permitted under s. 287.055(2)(f), the
71 governmental entity, after competitive negotiations, may require
72 the program management entity to provide for a separate
73 guaranteed maximum price or a lump-sum price and a separate
74 guaranteed completion date for each grouping of substantially
75 similar construction, rehabilitation, or renovation activities
76 included within the project.

77 (4) A governmental entity's authority under subsections (2)
78 and (3) includes entering into a continuing contract for
79 construction projects, pursuant to the process provided in s.
80 287.055, in which the estimated construction cost of each
81 individual project under the contract does not exceed \$10 ~~\$4~~
82 million. For purposes of this subsection, the term "continuing
83 contract" means a contract with a construction management or
84 program management entity for work during a defined period on
85 construction projects described by type which may or may not be
86 identified at the time of entering into the contract.

87 Section 2. Present subsections (10) and (11) of section

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88 287.055, Florida Statutes, are redesignated as subsections (11)
89 and (12), respectively, a new subsection (10) is added to that
90 section, and paragraph (g) of subsection (2) of that section is
91 amended, to read:

92 287.055 Acquisition of professional architectural,
93 engineering, landscape architectural, or surveying and mapping
94 services; definitions; procedures; contingent fees prohibited;
95 penalties.—

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

97 (g) A "continuing contract" is a contract for professional
98 services entered into in accordance with all the procedures of
99 this act between an agency and a firm whereby the firm provides
100 professional services to the agency for projects in which the
101 estimated construction cost of each individual project under the
102 contract does not exceed \$10 \$4 million plus an annual
103 percentage increase based on the Annual Consumer Price Index
104 compiled by the United States Department of Labor, beginning
105 with the Annual Consumer Price Index announced by the United
106 States Department of Labor for the year 2026;~~7~~ for study
107 activity if the fee for professional services for each
108 individual study under the contract does not exceed \$500,000;~~7~~
109 or for work of a specified nature as outlined in the contract
110 required by the agency, with the contract being for a fixed term
111 or with no time limitation except that the contract must provide
112 a termination clause. Firms providing professional services
113 under continuing contracts may ~~shall~~ not be required to bid
114 against one another.

115 (10) APPLICABILITY TO DEPARTMENT OF TRANSPORTATION.—

116 Notwithstanding any other provision of this section, for a

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117 geotechnical and materials testing continuing contract, the
118 Department of Transportation must select at least three, but no
119 more than five, qualified firms and assign such testing to the
120 selected firms on a rotating and equitable basis.

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