

By the Committee on Governmental Oversight and Accountability;
and Senator DiCeglie

585-02587-24

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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" to
8 increase the maximum dollar value of such contract, to
9 require the Department of Management Services,
10 beginning on a specified date and annually thereafter,
11 to adjust the maximum dollar value allowed under such
12 contracts using a specified index, and to publish the
13 new dollar value on its website; making technical
14 changes; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (4) of section 255.103, Florida
19 Statutes, is amended, and subsections (2) and (3) of that
20 section are republished, to read:

21 255.103 Construction management or program management
22 entities.—

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

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

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

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

79 (4) A governmental entity's authority under subsections (2)
80 and (3) includes entering into a continuing contract for
81 construction projects, pursuant to the process provided in s.
82 287.055, in which the estimated construction cost of each
83 individual project under the contract does not exceed \$7.5 ~~\$4~~
84 million. For purposes of this subsection, the term "continuing
85 contract" means a contract with a construction management or
86 program management entity for work during a defined period on
87 construction projects described by type which may or may not be

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88 identified at the time of entering into the contract.

89 Section 2. Paragraph (g) of subsection (2) of section
90 287.055, Florida Statutes, is amended to read:

91 287.055 Acquisition of professional architectural,
92 engineering, landscape architectural, or surveying and mapping
93 services; definitions; procedures; contingent fees prohibited;
94 penalties.—

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

96 (g)1. A “continuing contract” is a contract for any of the
97 following:

98 a. Professional services entered into in accordance with
99 all the procedures of this act between an agency and a firm
100 whereby the firm provides professional services to the agency
101 for projects in which the estimated construction cost of each
102 individual project under the contract does not exceed \$7.5 ~~\$4~~
103 million. Beginning July 1, 2025, and each July 1 thereafter, the
104 department shall adjust the maximum amount allowed on the
105 preceding June 30 for each individual project in a continuing
106 contract by using the change in the June-to-June Consumer Price
107 Index for All Urban Consumer issued by the Bureau of Labor
108 Statistics of the United States Department of Labor. The
109 department shall publish the adjusted amount on its website;~~τ~~

110 b. ~~for~~ Study activity if the fee for professional services
111 for each individual study under the contract does not exceed
112 \$500,000;~~τ~~ or

113 c. ~~for~~ Work of a specified nature as outlined in the
114 contract required by the agency, with the contract being for a
115 fixed term or with no time limitation except that the contract
116 must provide a termination clause.

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

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