

CHAPTER 2024-204

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 149

An act relating to continuing contracts; amending s. 255.103, F.S.; revising the maximum estimated construction cost of construction projects for which a governmental entity may enter into a continuing contract; requiring the Department of Management Services, beginning on a specified date and annually thereafter, to adjust the maximum amount allowed under specified contracts using a specified index and publish the adjusted amount on the department's website; amending s. 287.055, F.S.; revising the definition of the term "continuing contract" to increase the maximum dollar value of such contract and to require the department, beginning on a specified date and annually thereafter, to adjust the maximum amount allowed under such contracts using a specified index and publish the adjusted amount on the department's website; providing an effective date.

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

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

255.103 Construction management or program management entities.

(2) A governmental entity may select a construction management entity, pursuant to the process provided by s. 287.055, which is to be responsible for construction project scheduling and coordination in both preconstruction and construction phases and generally responsible for the successful, timely, and economical completion of the construction project. The construction management entity must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law. The construction management entity may retain necessary design professionals selected under the process provided in s. 287.055. At the option of the governmental entity, the construction management entity, after having been selected and after competitive negotiations, may be required to offer a guaranteed maximum price and a guaranteed completion date or a lump-sum price and a guaranteed completion date, in which case, the construction management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold construction subcontracts. If a project, as defined in s. 287.055(2)(f), solicited by a governmental entity under the process provided in s. 287.055 includes a grouping of substantially similar construction, rehabilitation, or renovation activities as permitted under s. 287.055(2)(f), the governmental entity, after competitive negotiations, may require the construction management entity to provide for a separate guaranteed maximum price or a separate lump-sum price and a separate guaranteed completion date for each grouping of

substantially similar construction, rehabilitation, or renovation activities included within the project.

(3) A governmental entity may select a program management entity, pursuant to the process provided by s. 287.055, which is to be responsible for schedule control, cost control, and coordination in providing or procuring planning, design, and construction services. The program management entity must consist of or contract with licensed or registered professionals for the specific areas of design or construction to be performed as required by law. The program management entity may retain necessary design professionals selected under the process provided in s. 287.055. At the option of the governmental entity, the program management entity, after having been selected and after competitive negotiations, may be required to offer a guaranteed maximum price and a guaranteed completion date or a lump-sum price and guaranteed completion date, in which case the program management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold design and construction subcontracts. If a project, as defined in s. 287.055(2)(f), solicited by a governmental entity under the process provided in s. 287.055 includes a grouping of substantially similar construction, rehabilitation, or renovation activities as permitted under s. 287.055(2)(f), the governmental entity, after competitive negotiations, may require the program management entity to provide for a separate guaranteed maximum price or a lump-sum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities included within the project.

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

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

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

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

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

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

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

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

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

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

Approved by the Governor May 28, 2024.

Filed in Office Secretary of State May 28, 2024.