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1                   A bill to be entitled  
2           An act relating to the procurement of professional  
3           architectural, engineering, landscape architectural,  
4           or surveying and mapping services; amending s.  
5           287.055, F.S.; revising the definition of the term  
6           "continuing contract," and defining the term "best  
7           value selection"; clarifying provisions with respect  
8           to selection of firms by an agency under the  
9           competitive selection process; providing that an  
10          agency has the right to reject any or all submissions  
11          received in response to a public announcement under  
12          the competitive selection process; authorizing an  
13          agency to award contracts to multiple firms under the  
14          competitive negotiation process; providing for a best  
15          value selection process; requiring agencies to adopt  
16          rules governing the use of the process; providing  
17          minimum requirements with respect to best value  
18          selection procedures; providing an effective date.

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

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22           Section 1. Paragraph (g) of subsection (2) of section  
23           287.055, Florida Statutes, is amended, and paragraph (m) is  
24           added to that subsection, paragraph (b) of subsection (4) is  
25           amended, and paragraph (e) is added to that subsection,  
26           paragraph (d) is added to subsection (5), subsections (6)  
27           through (11) are renumbered as subsections (7) through (12),

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28 | respectively, and a new subsection (6) is added to that section,  
29 | to read:

30 |       287.055 Acquisition of professional architectural,  
31 | engineering, landscape architectural, or surveying and mapping  
32 | services; definitions; procedures; contingent fees prohibited;  
33 | penalties.—

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

35 |       (g) A "continuing contract" is a contract for professional  
36 | services entered into in accordance with all the procedures of  
37 | this act between an agency and a firm whereby the firm provides  
38 | professional services to the agency for projects in which the  
39 | estimated construction cost of each individual project under the  
40 | contract does not exceed \$2 million, for study activity if the  
41 | fee for professional services for each individual study under  
42 | the contract does not exceed \$200,000, or for work of a  
43 | specified nature as outlined in the contract required by the  
44 | agency, with the contract having ~~being for a fixed term or with~~  
45 | no time limitation, except that the contract must provide a  
46 | termination clause. Firms providing professional services under  
47 | continuing contracts shall not be required to bid against one  
48 | another.

49 |       (m) "Best value selection" means the selection of a firm  
50 | or firms whose proposal provides the greatest overall benefit to  
51 | an agency in accordance with the requirements of a formal  
52 | solicitation.

53 |       (4) COMPETITIVE SELECTION.—

54 |       (b) The agency shall select in order of preference no  
55 | fewer than three firms deemed to be the most highly qualified to

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56 | perform the required services, except in instances where fewer  
57 | than three firms respond to the public announcement. In  
58 | determining whether a firm is qualified, the agency shall  
59 | consider such factors as the ability of professional personnel;  
60 | whether a firm is a certified minority business enterprise; past  
61 | performance; willingness to meet time and budget requirements;  
62 | location; recent, current, and projected workloads of the firms;  
63 | and the volume of work previously awarded to each firm by the  
64 | agency, with the object of effecting an equitable distribution  
65 | of contracts among qualified firms, provided such distribution  
66 | does not violate the principle of selection of the most highly  
67 | qualified firms. The agency may request, accept, and consider  
68 | proposals for the compensation to be paid under the contract  
69 | only during competitive negotiations under subsection (5).

70 | (e) The agency shall have the right to reject any or all  
71 | submissions received in response to the public announcement.

72 | (5) COMPETITIVE NEGOTIATION.—

73 | (d) The agency may, in its discretion, award contracts to  
74 | multiple firms.

75 | (6) BEST VALUE SELECTION PROCESS.—

76 | (a) An agency may, at its discretion, purchase  
77 | professional services utilizing a best value selection process,  
78 | subject to requirements provided in this subsection. The agency  
79 | shall make such purchases in accordance with this chapter and  
80 | rules applicable to the agency.

81 | (b) Each agency shall adopt rules governing the use of the  
82 | best value selection process in choosing a firm or firms.

83 | Procedures for the use of the best value selection process must

84 include, at a minimum:

85 1. The preparation and distribution of a public  
86 solicitation consistent with the requirements of subsection (3).  
87 The public solicitation shall contain the criteria, procedures,  
88 and standards for the evaluation of proposals considered under  
89 subparagraph 3.

90 2. The initial evaluation of proposals received in  
91 accordance with the requirements of paragraph (4) (a).

92 3. A two-stage selection process which shall, at a  
93 minimum, adhere to the following procedures and requirements:

94 a. Except as otherwise provided in this section, under the  
95 initial stage of the selection process, competing firms shall be  
96 evaluated using the criteria set forth in paragraph (4) (b) and  
97 the agency shall select a firm or firms based on the  
98 evaluations. Proposals for compensation to be paid under the  
99 contract may not be solicited or accepted during this stage of  
100 the selection process.

101 b. Under the second stage of the selection process, the  
102 firms selected shall be asked to submit a compensation proposal  
103 for the proposed work. The proposal shall be evaluated along  
104 with the information obtained under sub-subparagraph a. and any  
105 other information the agency chooses to request with the  
106 compensation proposal to make a best value selection.

107 4. A requirement that the criterion pertaining to  
108 compensation may not exceed 50 percent of the total weight of  
109 the published evaluation criteria.

110 5. Authority of an agency head to negotiate with the best  
111 firm available in the event of a declared state of emergency

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112 | pursuant to s. 252.36.

113 | Section 2. This act shall take effect July 1, 2013.