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CS/CS/CS/HB 149

2024 Legislature

1
 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; requiring the Department of Management
 7 Services, beginning on a specified date and annually
 8 thereafter, to adjust the maximum amount allowed under
 9 specified contracts using a specified index and
 10 publish the adjusted amount on the department's
 11 website; amending s. 287.055, F.S.; revising the
 12 definition of the term "continuing contract" to
 13 increase the maximum dollar value of such contract and
 14 to require the department, beginning on a specified
 15 date and annually thereafter, to adjust the maximum
 16 amount allowed under such contracts using a specified
 17 index and publish the adjusted amount on the
 18 department's website; providing an effective date.

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

21
 22 Section 1. Subsection (4) of section 255.103, Florida
 23 Statutes, is amended, and subsections (2) and (3) of that
 24 section are republished, to read:

25 255.103 Construction management or program management

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26 | entities.—

27 | (2) A governmental entity may select a construction
28 | management entity, pursuant to the process provided by s.
29 | 287.055, which is to be responsible for construction project
30 | scheduling and coordination in both preconstruction and
31 | construction phases and generally responsible for the
32 | successful, timely, and economical completion of the
33 | construction project. The construction management entity must
34 | consist of or contract with licensed or registered professionals
35 | for the specific fields or areas of construction to be
36 | performed, as required by law. The construction management
37 | entity may retain necessary design professionals selected under
38 | the process provided in s. 287.055. At the option of the
39 | governmental entity, the construction management entity, after
40 | having been selected and after competitive negotiations, may be
41 | required to offer a guaranteed maximum price and a guaranteed
42 | completion date or a lump-sum price and a guaranteed completion
43 | date, in which case, the construction management entity must
44 | secure an appropriate surety bond pursuant to s. 255.05 and must
45 | hold construction subcontracts. If a project, as defined in s.
46 | 287.055(2)(f), solicited by a governmental entity under the
47 | process provided in s. 287.055 includes a grouping of
48 | substantially similar construction, rehabilitation, or
49 | renovation activities as permitted under s. 287.055(2)(f), the
50 | governmental entity, after competitive negotiations, may require

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51 | the construction management entity to provide for a separate
52 | guaranteed maximum price or a separate lump-sum price and a
53 | separate guaranteed completion date for each grouping of
54 | substantially similar construction, rehabilitation, or
55 | renovation activities included within the project.

56 | (3) A governmental entity may select a program management
57 | entity, pursuant to the process provided by s. 287.055, which is
58 | to be responsible for schedule control, cost control, and
59 | coordination in providing or procuring planning, design, and
60 | construction services. The program management entity must
61 | consist of or contract with licensed or registered professionals
62 | for the specific areas of design or construction to be performed
63 | as required by law. The program management entity may retain
64 | necessary design professionals selected under the process
65 | provided in s. 287.055. At the option of the governmental
66 | entity, the program management entity, after having been
67 | selected and after competitive negotiations, may be required to
68 | offer a guaranteed maximum price and a guaranteed completion
69 | date or a lump-sum price and guaranteed completion date, in
70 | which case the program management entity must secure an
71 | appropriate surety bond pursuant to s. 255.05 and must hold
72 | design and construction subcontracts. If a project, as defined
73 | in s. 287.055(2)(f), solicited by a governmental entity under
74 | the process provided in s. 287.055 includes a grouping of
75 | substantially similar construction, rehabilitation, or

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76 renovation activities as permitted under s. 287.055(2)(f), the
77 governmental entity, after competitive negotiations, may require
78 the program management entity to provide for a separate
79 guaranteed maximum price or a lump-sum price and a separate
80 guaranteed completion date for each grouping of substantially
81 similar construction, rehabilitation, or renovation activities
82 included within the project.

83 (4) A governmental entity's authority under subsections
84 (2) and (3) includes entering into a continuing contract for
85 construction projects, pursuant to the process provided in s.
86 287.055, in which the estimated construction cost of each
87 individual project under the contract does not exceed \$7.5 ~~\$4~~
88 million. Beginning July 1, 2025, and each July 1 thereafter, the
89 Department of Management Services shall adjust the maximum
90 amount allowed on the preceding June 30 for each individual
91 project in a continuing contract by using the change in the
92 June-to-June Consumer Price Index for All Urban Consumers issued
93 by the Bureau of Labor Statistics of the United States
94 Department of Labor. The Department of Management Services shall
95 publish the adjusted amount on its website. For purposes of this
96 subsection, the term "continuing contract" means a contract with
97 a construction management or program management entity for work
98 during a defined period on construction projects described by
99 type which may or may not be identified at the time of entering
100 into the contract.

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101 Section 2. Paragraph (g) of subsection (2) of section
 102 287.055, Florida Statutes, is amended to read:

103 287.055 Acquisition of professional architectural,
 104 engineering, landscape architectural, or surveying and mapping
 105 services; definitions; procedures; contingent fees prohibited;
 106 penalties.—

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

108 (g)1. A "continuing contract" is a contract for any of the
 109 following:

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

122 b. ~~for~~ Study activity if the fee for professional services
 123 for each individual study under the contract does not exceed
 124 \$500,000;~~τ~~ or

125 c. ~~for~~ Work of a specified nature as outlined in the

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126 | contract required by the agency, with the contract being for a
127 | fixed term or with no time limitation except that the contract
128 | must provide a termination clause.

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

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