

CHAPTER 2024-236

Committee Substitute for House Bill No. 379

An act relating to public records; amending s. 119.071, F.S.; providing an exemption from public records requirements for certain financial information a prospective bidder submits to an agency in order to prequalify for bidding or for responding to a solicitation for road or other public works projects; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(1) AGENCY ADMINISTRATION.—

(c) Any financial statement ~~or other financial information necessary to verify the financial adequacy of a prospective bidder which that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a solicitation proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. The Legislature finds that it is a public necessity that financial information necessary to verify the financial adequacy of a prospective bidder which an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a solicitation for a road or any other public works project be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. In the prequalification process, a prospective bidder will provide financial statements to the agency, and the agency may request additional financial information in order to verify the financial adequacy of the prospective bidder. The additional financial information often contains sensitive information. The risk of potential disclosure of sensitive financial information defeats the purpose of protections already afforded to financial statements and may have a chilling effect on persons desiring to prequalify or maintain prequalification. The chilling effect may result in a limited pool of potential bidders and, thus, negatively impact the state's ability to receive the best value for road and other public works projects. Additionally, protecting this financial information from disclosure will prevent such information from

being used by competitors to gain an unfair advantage against other bidders on road and other public works projects. Lastly, protecting this financial information from disclosure promotes the free provision of such information to the requesting agency by removing a prospective bidder's concern for attendant risks in doing so. As a result, this exemption promotes the state's interest in ensuring that prospective bidders on road and other public works projects possess the necessary financial resources to complete such projects, many of which involve immense costs and may be complex and of long duration.

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

Approved by the Governor June 13, 2024.

Filed in Office Secretary of State June 13, 2024.