



26 (7) Each contract for construction services between a  
 27 local governmental entity and a contractor must provide for the  
 28 development of a single list of items required to render  
 29 complete, satisfactory, and acceptable the construction services  
 30 purchased by the local governmental entity, which must include a  
 31 dollar valuation, determined by the contractor using reasonable  
 32 market rates, of the estimated cost to complete each item.

33 (a) The contract must specify the process for developing  
 34 the list, including the responsibilities of the local  
 35 governmental entity and the contractor in developing and  
 36 reviewing the list and a reasonable time for developing the  
 37 list:

38 1. For construction projects having an estimated cost of  
 39 Less than \$10 million, within 30 calendar days after reaching  
 40 substantial completion of the construction services purchased as  
 41 defined in the contract, or, if not defined in the contract,  
 42 upon reaching beneficial occupancy or use; or

43 2. For construction projects having an estimated cost of  
 44 \$10 million or more, within 30 calendar days, ~~or, if extended by~~  
 45 ~~contract, up to 60 calendar days~~ after reaching substantial  
 46 completion of the construction services purchased as defined in  
 47 the contract, or, if not defined in the contract, upon reaching  
 48 beneficial occupancy or use.

49  
 50 The contract must also specify a date for the delivery of the

51 list of items, not to exceed 5 days after the list of items has  
52 been developed and reviewed in accordance with the time periods  
53 set forth in subparagraphs 1. and 2.

54 (b) If the contract between the local governmental entity  
55 and the contractor relates to the purchase of construction  
56 services on more than one building or structure, or involves a  
57 multiphased project, the contract must provide for the  
58 development of a list of items required to render complete,  
59 satisfactory, and acceptable all the construction services  
60 purchased pursuant to the contract for each building, structure,  
61 or phase of the project within the time limitations provided in  
62 paragraph (a).

63 (c) The final contract completion date must be at least 30  
64 days after the delivery of the list of items. If the list is not  
65 provided to the contractor by the agreed upon date for delivery  
66 of the list, the contract time for completion must be extended  
67 by the number of days the local governmental entity exceeded the  
68 delivery date. Damages may not be assessed against a contractor  
69 for failing to complete a project within the time required by  
70 the contract, unless the contractor failed to complete the  
71 project within the contract period as extended under this  
72 paragraph.

73 (d) The failure to include any corrective work or pending  
74 items not yet completed on the list does not alter the  
75 responsibility of the contractor to complete all the

76 construction services purchased pursuant to the contract.

77 (e) Within 20 days after developing the list, the local  
 78 governmental entity shall pay the contractor the remaining  
 79 balance of the contract, including any remaining retainage  
 80 withheld by the local governmental entity, less an amount that  
 81 equals the estimated cost to complete the items on the list.

82 (f)-(e) Upon completion of all items on the list, the  
 83 contractor may submit a payment request for the amount ~~all~~  
 84 ~~remaining retainage~~ withheld by the local governmental entity  
 85 pursuant to paragraph (e) ~~this section~~. If a good faith dispute  
 86 exists as to whether one or more items identified on the list  
 87 have been completed pursuant to the contract, the local  
 88 governmental entity may continue to withhold up to 150 percent  
 89 of the total costs to complete such items.

90 (g)-(f) All items that require correction under the  
 91 contract and that are identified after the preparation and  
 92 delivery of the list remain the obligation of the contractor as  
 93 defined by the contract.

94 (h)-(g) Warranty items or items not included in the list of  
 95 items required under paragraph (a) may not affect the final  
 96 payment of retainage as provided in this section or as provided  
 97 in the contract between the contractor and its subcontractors  
 98 and suppliers.

99 (i)-(h) Retainage may not be held by a local governmental  
 100 entity or a contractor to secure payment of insurance premiums

101 under a consolidated insurance program or series of insurance  
 102 policies issued to a local governmental entity or a contractor  
 103 for a project or group of projects, and the final payment of  
 104 retainage as provided in this section may not be delayed pending  
 105 a final audit by the local governmental entity's or contractor's  
 106 insurance provider.

107 (j)~~(i)~~ If a local governmental entity fails to comply with  
 108 its responsibilities to develop the list required under  
 109 paragraph (a) or paragraph (b) within the time limitations  
 110 provided in paragraph (a), the contractor may submit a payment  
 111 request to the local governmental entity for the remaining  
 112 balance of the contract, including all remaining retainage  
 113 withheld by the local governmental entity. The local  
 114 governmental entity must pay the contractor pursuant to this  
 115 section; and payment of any remaining undisputed contract  
 116 amount, less any amount withheld pursuant to the contract for  
 117 incomplete or uncorrected work, must be paid within 20 business  
 118 days after receipt of a proper invoice or payment request. If  
 119 the local governmental entity has provided written notice to the  
 120 contractor specifying the failure of the contractor to meet  
 121 contract requirements in the development of the list of items to  
 122 be completed, the local governmental entity shall pay the  
 123 contractor the remaining balance of the contract, less an amount  
 124 equal to 150 percent of the estimated cost to complete the items  
 125 that the local governmental entity intended to include on the

126 ~~list need not pay or process any payment request for retainage~~  
 127 ~~if the contractor has, in whole or in part, failed to cooperate~~  
 128 ~~with the local governmental entity in the development of the~~  
 129 ~~list or to perform its contractual responsibilities, if any,~~  
 130 ~~with regard to the development of the list or if paragraph~~  
 131 ~~(8)(c) applies.~~

132 (8)

133 (c) This section does not require the local governmental  
 134 entity to pay or release any amounts that are the subject of a  
 135 good faith dispute or, the subject of a claim brought pursuant  
 136 to s. 255.05, ~~or otherwise the subject of a claim or demand by~~  
 137 ~~the local governmental entity or contractor.~~

138 Section 2. Paragraph (a) of subsection (2) of section  
 139 218.76, Florida Statutes, is amended to read:

140 218.76 Improper payment request or invoice; resolution of  
 141 disputes.—

142 (2)(a) If a dispute arises between a vendor and a local  
 143 governmental entity concerning payment of a payment request or  
 144 invoice, the dispute shall be finally determined by the local  
 145 governmental entity pursuant to a dispute resolution procedure  
 146 established by the local governmental entity. Such procedure  
 147 must provide that proceedings to resolve the dispute are  
 148 commenced within 30 ~~45~~ days after the date the payment request  
 149 or proper invoice was received by the local governmental entity  
 150 and concluded by final decision of the local governmental entity

151 within 45 ~~60~~ days after the date the payment request or proper  
 152 invoice was received by the local governmental entity. Such  
 153 procedures are not subject to chapter 120 and do not constitute  
 154 an administrative proceeding that prohibits a court from  
 155 deciding de novo any action arising out of the dispute. If the  
 156 dispute is resolved in favor of the local governmental entity,  
 157 interest charges begin to accrue 15 days after the local  
 158 governmental entity's final decision. If the dispute is resolved  
 159 in favor of the vendor, interest begins to accrue as of the  
 160 original date the payment became due.

161 Section 3. Subsection (2) of section 255.073, Florida  
 162 Statutes, is amended to read:

163 255.073 Timely payment for purchases of construction  
 164 services.—

165 (2) If a public entity disputes a portion of a payment  
 166 request, the undisputed portion must be ~~timely~~ paid by the date  
 167 required under the contract or by 20 days after receipt of the  
 168 request, whichever is earlier.

169 Section 4. Subsection (3) of section 255.074, Florida  
 170 Statutes, is amended to read:

171 255.074 Procedures for calculation of payment due dates.—

172 (3) A public entity must submit a payment request to the  
 173 Chief Financial Officer for payment no more than 14 ~~20~~ days  
 174 after receipt of the payment request.

175 Section 5. Subsections (4) through (8) of section 255.077,

176 Florida Statutes, are renumbered as subsections (5) through (9),  
 177 respectively, subsection (1) and present subsections (4) and (8)  
 178 are amended, and a new subsection (4) is added to that section,  
 179 to read:

180 255.077 Project closeout and payment of retainage.—

181 (1) Each contract for construction services between a  
 182 public entity and a contractor must provide for the development  
 183 of a list of items required to render complete, satisfactory,  
 184 and acceptable the construction services purchased by the public  
 185 entity, which must include a dollar valuation, determined by the  
 186 contractor using reasonable market rates, of the estimated cost  
 187 to complete each item. The contract must specify the process for  
 188 the development of the list, including responsibilities of the  
 189 public entity and the contractor in developing and reviewing the  
 190 list and a reasonable time for developing the list, as follows:

191 (a) For construction projects having an estimated cost of  
 192 less than \$10 million, within 30 calendar days after reaching  
 193 substantial completion of the construction services purchased as  
 194 defined in the contract, or, if not defined in the contract,  
 195 upon reaching beneficial occupancy or use; or

196 (b) For construction projects having an estimated cost of  
 197 \$10 million or more, within 30 calendar days, unless otherwise  
 198 extended by contract not to exceed 60 calendar days, after  
 199 reaching substantial completion of the construction services  
 200 purchased as defined in the contract, or, if not defined in the



201 contract, upon reaching beneficial occupancy or use.

202 (4) Within 20 days after developing the list, the public  
 203 entity shall pay the contractor the remaining balance of the  
 204 contract, including any remaining retainage withheld by the  
 205 public entity pursuant to s. 255.078, less an amount that equals  
 206 the estimated costs to complete the items on the list.

207 (5)~~(4)~~ Upon completion of all items on the list, the  
 208 contractor may submit a payment request for the amount ~~all~~  
 209 ~~remaining retainage~~ withheld by the public entity pursuant to  
 210 subsection (4) s. 255.078. If a good faith dispute exists as to  
 211 whether one or more items identified on the list have been  
 212 completed pursuant to the contract, the public entity may  
 213 continue to withhold an amount not to exceed 100 ~~150~~ percent of  
 214 the total costs to complete such items.

215 (9)~~(8)~~ If a public entity fails to comply with its  
 216 responsibilities to develop the list required under subsection  
 217 (1) or subsection (2), as defined in the contract, within the  
 218 time limitations provided in subsection (1), the contractor may  
 219 submit to the public entity a payment request for all remaining  
 220 retainage withheld by the public entity pursuant to s. 255.078.  
 221 The public entity shall pay the contractor within 20 days after  
 222 receiving the payment request. However, the public entity need  
 223 not pay or process any payment request for retainage if the  
 224 contractor has, ~~in whole or in part,~~ failed to cooperate with  
 225 the public entity in the development of the list or failed to

226 perform its contractual responsibilities, if any, with regard to  
 227 the development of the list or if s. 255.078(3) applies.

228 Section 6. Subsection (3) of section 255.078, Florida  
 229 Statutes, is amended to read:

230 255.078 Public construction retainage.—

231 (3) This section and s. 255.077 do not require the public  
 232 entity to pay or release any amounts that are the subject of a  
 233 good faith dispute or, the subject of a claim brought pursuant  
 234 to s. 255.05, ~~or otherwise the subject of a claim or demand by~~  
 235 ~~the public entity or contractor.~~

236 Section 7. Paragraph (b) of subsection (1) of section  
 237 255.0992, Florida Statutes, is amended to read:

238 255.0992 Public works projects; prohibited governmental  
 239 actions.—

240 (1) As used in this section, the term:

241 (b) "Public works project" means an activity ~~exceeding \$1~~  
 242 ~~million in value~~ that is paid for with any local or state-  
 243 appropriated funds and which consists of the construction,  
 244 maintenance, repair, renovation, remodeling, or improvement of a  
 245 building, road, street, sewer, storm drain, water system, site  
 246 development, irrigation system, reclamation project, gas or  
 247 electrical distribution system, gas or electrical substation, or  
 248 other facility, project, or portion thereof that is owned in  
 249 whole or in part by any political subdivision.

250 Section 8. This act shall take effect July 1, 2023.