

By the Committee on Banking and Insurance; and Senator Gaetz

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1 A bill to be entitled
2 An act relating to state contracting; amending s.
3 11.45, F.S.; conforming provisions to changes made by
4 the act; amending s. 215.971, F.S.; requiring
5 agreements funded with state or federal financial
6 assistance to include a performance measure for each
7 deliverable, to be reviewed and approved in accordance
8 with rules adopted by the Department of Financial
9 Services, and to have the contracting entity assign a
10 grants manager who is responsible for enforcing
11 performance of the agreement; amending s. 215.985,
12 F.S.; revising provisions relating to the Chief
13 Financial Officer's intergovernmental contract
14 tracking system under the Transparency Florida Act;
15 specifying the entities that are included in the
16 tracking system; requiring that exempt and
17 confidential information be redacted from contracts
18 and procurement documents posted on the system;
19 authorizing the Chief Financial Officer to make
20 available the information posted on the system to the
21 public through a secure website; authorizing the
22 Department of Financial Services to adopt rules;
23 repealing s. 216.0111, F.S., relating to a requirement
24 that state agencies report certain contract
25 information to the Department of Financial Services
26 and transferring that requirement to s. 215.985, F.S.;
27 amending s. 287.032, F.S.; dividing the
28 responsibilities of the Department of Management
29 Services under ch. 287, F.S., with the Department of

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30 Financial Services; amending s. 287.042, F.S.;

31 limiting the duties of the Department of Management

32 Services to the procurement of commodities and

33 contractual services; directing the department to

34 develop a list of interested vendors; deleting

35 provisions requiring that the department perform

36 duties relating to procurement and contracting

37 policies and procedures; creating s. 287.044, F.S.;

38 assigning duties relating to procurement and

39 contracting policies and procedures to the Department

40 of Financial Services; requiring the department to

41 develop a list of vendors not allowed to do business

42 with the state; amending s. 287.057, F.S.; revising

43 the list of contractual services and commodities that

44 are exempt from competitive solicitation to delete

45 certain services from the exemption; revising

46 provisions prohibiting an agency from dividing a

47 solicitation; conforming provisions to changes made by

48 the act; authorizing an agency or other eligible user

49 to purchase commodities or services through another

50 agency's contract; amending s. 287.058, F.S.;

51 requiring contracts to include a performance measure

52 for each deliverable; authorizing the Chief Financial

53 Officer to review and approve contracts; providing

54 requirements for such reviews; authorizing the Chief

55 Financial Officer to establish dollar thresholds and

56 another criteria for sampling agreements that are to

57 be reviewed before execution; providing criteria for

58 the department's review of contract documentation;

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59 requiring that the department verify that a
60 competitive process was used and that a contract was
61 appropriately awarded; providing for the review of
62 procurement record for contracts not competitively
63 awarded; specifying the number of days that the
64 department must make its final determination regarding
65 the approval of a contract; authorizing the department
66 and the agency to agree to a longer review period;
67 repealing s. 287.095(3), F.S., relating to certain
68 products produced by inmate labor; creating s.
69 287.1312, F.S.; requiring certification of contract
70 managers by the Department of Financial Services for
71 contracts of more than a certain amount; requiring the
72 training program for the certification to provide
73 training in certain areas; authorizing the department
74 to adopt rules to administer the program; amending s.
75 287.133, F.S.; revising the definition of "department"
76 to mean the Department of Financial Services rather
77 than the Department of Management Services with
78 respect to provisions governing public entity crimes
79 and placement on the convicted vendor list; amending
80 ss. 255.25, 287.012, 402.7305, 427.0135, and 946.515,
81 F.S.; conforming cross-references; requiring the Chief
82 Financial Officer to conduct a study of current
83 procurement laws pursuant to such policies; requiring
84 that the Chief Financial Officer submit a report to
85 the Legislature and Governor by a certain date on such
86 study; repealing ch. 287, F.S., on a future date;
87 providing appropriations; providing effective dates.

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

90

91 Section 1. Paragraphs (a) and (i) of subsection (7) of
92 section 11.45, Florida Statutes, are amended to read:

93 11.45 Definitions; duties; authorities; reports; rules.—

94 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

95 (a) The Auditor General must ~~shall~~ notify the Legislative
96 Auditing Committee of any local governmental entity, district
97 school board, charter school, or charter technical career center
98 that does not comply with the reporting requirements of s.
99 215.985 or s. 218.39.

100 (i) Beginning in 2012, the Auditor General shall annually
101 transmit by July 15, to the President of the Senate, the Speaker
102 of the House of Representatives, and the Department of Financial
103 Services, a list of all school districts, charter schools,
104 charter technical career centers, Florida College System
105 institutions, state universities, and water management districts
106 that have failed to comply with the transparency requirements of
107 s. 215.985 as identified in the audit reports reviewed pursuant
108 to paragraph (b) and those conducted pursuant to subsection (2).

109 Section 2. Section 215.971, Florida Statutes, is amended to
110 read:

111 215.971 Agreements funded with federal and state
112 assistance.—

113 (1) For an agency agreement that provides state financial
114 assistance to a recipient or subrecipient, as those terms are
115 defined in s. 215.97, or that provides federal financial
116 assistance to a subrecipient, as defined by applicable United

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117 States Office of Management and Budget circulars, the agreement
118 must ~~shall~~ include a provision:

119 (a) ~~(1)~~ A ~~provision~~ Specifying a scope of work that clearly
120 establishes the tasks that the recipient or subrecipient is
121 required to perform; and

122 (b) ~~(2)~~ A ~~provision~~ Dividing the agreement into quantifiable
123 units of deliverables which ~~that~~ must be received and accepted
124 in writing by the agency before payment. Each deliverable must
125 be directly related to the scope of work and ~~must~~ specify a
126 performance measure. As used in this paragraph, the term
127 "performance measure" means the required minimum level of
128 service to be performed and the criteria for evaluating the
129 successful completion of each deliverable.

130 (2) Effective October 1, 2012, before execution, agreements
131 to be funded with state or federal financial assistance must be
132 submitted for review and approval in accordance with rules
133 adopted by the Department of Financial Services. The review must
134 ensure that the agreement document contains a clear statement of
135 work, quantifiable and measureable deliverables, performance
136 measures, and financial consequences for nonperformance. An
137 agreement that does not comply with this subsection may be
138 rejected and returned to the submitting agency for revision.

139 (3) The Chief Financial Officer may establish dollar
140 thresholds and other criteria for sampling the agreements that
141 are to be reviewed prior to execution. The Chief Financial
142 Officer may revise such thresholds and other criteria for an
143 agency or the unit of any agency as he or she deems appropriate.

144 (4) The department has 30 days to make a final
145 determination regarding approval of an agreement. The department

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146 and the agency entering into the agreement may agree to a longer
147 review period to ensure the thorough consideration of the
148 procurement process and its results.

149 (5) For each agreement funded with federal or state
150 assistance, the contracting agency shall designate an employee
151 to function as grant manager who shall be responsible for
152 enforcing performance of the agreement terms and conditions and
153 serve as a liaison with the recipient. A grant manager who is
154 responsible for one or more agreements in excess of the
155 threshold amount provided in s. 287.017 for CATEGORY FIVE must
156 be certified under s. 287.1312. The Chief Financial Officer
157 shall establish and disseminate uniform procedures for payment
158 requests pursuant to s. 17.03(3) to ensure that services are
159 rendered in accordance with the agreement terms before the
160 agency processes an invoice for payment. The procedures must
161 include, but need not be limited to, procedures for monitoring
162 and documenting a recipient's performance, reviewing and
163 documenting all deliverables for which payment is requested by
164 the recipient, and providing written certification by the grant
165 manager of the agency's receipt of goods and services.

166 Section 3. Subsection (16) of section 215.985, Florida
167 Statutes, is amended to read:

168 215.985 Transparency in government spending.—

169 (16) The Chief Financial Officer shall establish and
170 maintain a secure, shared, intergovernmental contract tracking
171 ~~provide public access to a state contract management system.~~

172 (a) Within 30 calendar days after executing a contract,
173 each state agency as defined in s. 216.011(1), and, effective
174 November 1, 2013, each local governmental entity and independent

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175 special district as defined in s. 218.31, each district school
176 board as described in s. 1001.32, the Board of Governors of the
177 State University System as described in s. 1001.70, and each
178 Florida College System institution board of trustees as
179 described in s. 1001.61 must post the following ~~that provides~~
180 information and documentation relating to ~~that contract on the~~
181 contract tracking system: ~~contracts procured by governmental~~
182 entities.

- 183 1. The name of the contracting entities;
- 184 2. The procurement method;
- 185 3. The contract beginning and ending dates;
- 186 4. The nature or type of the commodities or services
187 purchased;
- 188 5. Applicable contract unit prices and deliverables;
- 189 6. Total compensation to be paid or received under the
190 contract;
- 191 7. All payments made to the contract vendor to date;
- 192 8. All commodities or services received from the contract
193 vendor to date;
- 194 9. Applicable contract performance measures;
- 195 10. Contract extensions or renewals, if any;
- 196 11. The justification for not using competitive
197 solicitation to procure the contract, including citation to any
198 statutory exemption or exception from competitive solicitation,
199 if applicable;
- 200 12. Electronic copies of the contract and procurement
201 documents, including any provision that may have been redacted
202 to conceal exempt or confidential information; and
- 203 13. Any other information regarding the contract or the

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204 procurement which may be required by the Department of Financial
205 Services.

206 ~~(a) The data collected in the system must include, but need~~
207 ~~not be limited to, the contracting agency; the procurement~~
208 ~~method; the contract beginning and ending dates; the type of~~
209 ~~commodity or service; the purpose of the commodity or service;~~
210 ~~the compensation to be paid; compliance information, such as~~
211 ~~performance metrics for the service or commodity; contract~~
212 ~~violations; the number of extensions or renewals; and the~~
213 ~~statutory authority for providing the service.~~

214 (b) Within 30 calendar days after a major modification or
215 amendment change to an existing contract, ~~or the execution of a~~
216 ~~new contract, agency procurement staff of the affected state~~
217 ~~governmental entity must shall~~ update the ~~necessary~~ information
218 described in paragraph (a) in the state contract tracking
219 management system. A major modification or amendment change to a
220 contract includes, but is not limited to, a renewal,
221 termination, or extension of the contract, or an amendment to
222 the contract as determined by the Chief Financial Officer.

223 (c) Each entity identified in paragraph (a) must redact, as
224 defined in s. 119.011, any exempt or confidential information,
225 including trade secrets as defined in s. 688.002 or s. 812.081,
226 from the contract or procurement documents before posting an
227 electronic copy of such documents on the contract tracking
228 system.

229 1. If an entity becomes aware that an electronic copy of a
230 contract or procurement document that it posted has not been
231 properly redacted, the entity must replace the electronic copy
232 of the documents with a redacted copy.

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233 2. If a party to a contract, or an authorized
234 representative thereof, discovers that an electronic copy of a
235 contract or procurement document on the system has not been
236 properly redacted, the party or representative may request the
237 entity that posted the document to redact the exempt or
238 confidential information. Upon receipt of a request in
239 compliance with this subparagraph, the entity that posted the
240 document shall redact the exempt or confidential information.

241 a. Such request must be in writing and delivered by mail,
242 facsimile, or electronic transmission, or in person to the
243 entity that posted the information. The request must identify
244 the specific document, the page numbers that include the exempt
245 or confidential information, the information that is exempt or
246 confidential, and the relevant statutory exemption. A fee may
247 not be charged for a redaction made pursuant to such request.

248 b. If necessary, a party to the contract may petition the
249 circuit court for an order directing compliance with this
250 paragraph.

251 3. The Chief Financial Officer, the Department of Financial
252 Services, or any officer, employee, or contractor thereof, is
253 not responsible for redacting exempt or confidential information
254 from an electronic copy of a contract or procurement document
255 posted by another entity on the system, and is not liable for
256 the failure of the entity to redact the exempt or confidential
257 information. The Department of Financial Services may notify the
258 posting entity if it discovers that a document posted on the
259 tracking system contains exempt or confidential information.

260 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial
261 Officer may make information posted on the contract tracking

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262 system available for viewing and downloading by the public
263 through a secure website. Unless otherwise provided by law,
264 information retrieved electronically pursuant to this paragraph
265 is not admissible in court as an authenticated document.

266 1. The Chief Financial Officer may regulate and prohibit
267 the posting of records that could facilitate identity theft or
268 fraud, such as signatures; compromise or reveal an agency
269 investigation; reveal the identity of undercover personnel;
270 reveal proprietary confidential business information or trade
271 secrets; reveal an individual's medical information; or reveal
272 any other record or information that the Chief Financial Officer
273 believes may jeopardize the health, safety, or welfare of the
274 public. However, such prohibition does not eliminate the duty of
275 an entity to provide a copy of a public record upon request. The
276 Chief Financial Officer shall use appropriate Internet security
277 measures to ensure that no person has the ability to alter or
278 modify records available on the website.

279 2. Records made available on the website, including
280 electronic copies of contracts or procurement documents, may not
281 reveal information made exempt or confidential by law. Notice of
282 the right of an affected party to request redaction of exempt or
283 confidential information pursuant to paragraph (c) must be
284 conspicuously and clearly displayed on the website. This
285 includes, but is not limited to:

286 a. Criminal intelligence or criminal investigative
287 information as defined in s. 119.011;

288 b. Surveillance techniques or procedures or personnel;

289 c. The identity of a confidential informant or confidential
290 source;

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291 d. The identify of undercover personnel of a criminal
292 justice agency;

293 e. A security system plan; or

294 f. Trade secret as defined in s. 688.002 or s. 812.081.

295 (e) The posting of information on the contract tracking
296 system or the provision of contract information on a website for
297 public viewing and downloading does not eliminate the duty of an
298 entity to respond to a public record request for such
299 information or to a subpoena for such information.

300 1. A request for a copy of a contract or procurement
301 document or a certified copy of a contract or procurement
302 document shall be made to the entity that is party to the
303 contract and that maintains the original documents. Such request
304 may not be made to the Chief Financial Officer or the Department
305 of Financial Services or any officer, employee, or contractor
306 thereof unless the Chief Financial Officer or the department is
307 a party to the contract.

308 2. A subpoena for a copy of a contract or procurement
309 document or certified copy of a contract or procurement document
310 must be served on the entity that is a party to the contract and
311 that maintains the original documents. The Chief Financial
312 Officer or the Department of Financial Services or any officer,
313 employee, or contractor thereof may not be served a subpoena for
314 those records unless the Chief Financial Officer or the
315 department is a party to the contract.

316 (f) The Department of Financial Services may adopt rules to
317 administer this subsection.

318 Section 4. Section 216.0111, Florida Statutes, is repealed.

319 Section 5. Effective October 1, 2013, section 287.032,

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320 Florida Statutes, is amended to read:

321 287.032 Departmental responsibility ~~purpose of department.~~-
322 Pursuant to the administration of this chapter:

323 ~~(1) It shall be~~ The responsibility ~~purpose~~ of the
324 Department of Management Services is to:

325 (a) ~~(1) To~~ Promote efficiency, economy, and the conservation
326 of energy and coordinate ~~to effect coordination~~ in the purchase
327 of commodities and contractual services for the state.

328 ~~(2) To provide uniform commodity and contractual service~~
329 ~~procurement policies, rules, procedures, and forms for use by~~
330 ~~agencies and eligible users.~~

331 (b) ~~(3) To~~ Procure and distribute federal surplus tangible
332 personal property allocated to the state by the Federal
333 Government.

334 (2) The responsibility of the Department of Financial
335 Services is to:

336 (a) Provide uniform commodity and contractual service
337 procurement policies, rules, procedures, and forms for use by
338 agencies and eligible users.

339 (b) Monitor agencies with respect to compliance with
340 established policies, rules, and procedures.

341 Section 6. Effective October 1, 2013, section 287.042,
342 Florida Statutes, is amended to read:

343 287.042 Powers, duties, and functions of the Department of
344 Management Services.-The department is responsible for the
345 procurement of commodities and contractual services for agencies
346 and has ~~shall have~~ the following powers, duties, and functions:

347 ~~(1)(a)~~ To canvass all sources of supply, establish and
348 maintain a vendor list, and contract for the purchase, lease, or

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349 acquisition, including purchase by installment sales or lease-
350 purchase contracts which may provide for the payment of interest
351 on unpaid portions of the purchase price, of all commodities and
352 contractual services required by an ~~any~~ agency under this
353 chapter. A ~~Any~~ contract providing for deferred payments and the
354 payment of interest is ~~shall be~~ subject to specific rules
355 adopted by the Department of Financial Services.

356 (a)-(b) The department shall develop a list of interested
357 vendors to be maintained by classes of commodities and
358 contractual services. The list may not be used to prequalify a
359 vendor or to exclude an interested vendor from bidding. However,
360 a vendor barred by the Chief Financial Officer pursuant to s.
361 287.044(7) may not be included on the list. The department may
362 remove from the ~~its~~ vendor list any source of supply which fails
363 to fulfill any of its duties specified in a contract with the
364 state. The department ~~It~~ may reinstate ~~any~~ such source of supply
365 if the department ~~when it~~ is satisfied that further instances of
366 default will not occur.

367 (b)-(e) In order to promote the cost-effective procurement
368 of commodities and contractual services, the department or an
369 agency may enter into contracts that limit the liability of a
370 vendor consistent with s. 672.719.

371 ~~(d) The department shall issue commodity numbers for all~~
372 ~~products of the corporation operating the correctional industry~~
373 ~~program which meet or exceed department specifications.~~

374 (c)-(e) The department shall include the products offered by
375 the corporation operating the correctional industry program on
376 any listing prepared by the department which lists state term
377 contracts executed by the department. The products or services

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378 shall be placed on such list in a category based upon
379 specification criteria developed through a joint effort of the
380 department and the corporation and approved by the department.

381 1.~~(f)~~ The corporation may submit products and services to
382 the department for testing, analysis, and review relating to the
383 quality and cost comparability. If, after review and testing,
384 the department approves ~~of~~ the products and services, the
385 department shall give written notice ~~thereof~~ to the corporation.
386 The corporation shall pay a reasonable fee ~~charged~~ for the
387 testing of its products by the Department of Agriculture and
388 Consumer Services.

389 2. The department shall issue a commodity number for all
390 products of the corporation which meet or exceed department
391 specifications.

392 (d)~~(g)~~ The department shall include products and services
393 that are offered by a qualified nonprofit agency for the blind
394 or for the other severely handicapped ~~organized pursuant to~~
395 ~~chapter 413~~ and that have been determined to be suitable for
396 purchase pursuant to s. 413.035 on a ~~any~~ department listing of
397 state term contracts. The products and services shall be placed
398 on such list in a category based upon specification criteria
399 developed by the department in consultation with the ~~qualified~~
400 nonprofit agency.

401 (e)~~(h)~~ The department may collect fees for the use of its
402 electronic information services. The fees may be imposed on an
403 individual transaction basis or as a fixed subscription for a
404 designated period of time. At a minimum, the fees shall be
405 determined in an amount sufficient to cover the department's
406 projected costs for ~~of~~ the services, including overhead, in

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407 accordance with the policies of the department ~~of Management~~
408 ~~Services~~ for computing its administrative assessment. All fees
409 collected under this paragraph shall be deposited in the
410 Operating Trust Fund for disbursement as provided by law.

411 (2) ~~(a)~~ To establish purchasing agreements and procure state
412 term contracts for commodities and contractual services,
413 pursuant to s. 287.057, under which state agencies shall, and
414 eligible users may, make purchases pursuant to s. 287.056.

415 (a) The department may restrict purchases by ~~from some term~~
416 ~~contracts to~~ state agencies from ~~only for these~~ term contracts
417 if ~~where~~ the inclusion of other governmental entities will have
418 an adverse effect on competition or on ~~to these~~ federal
419 facilities located in this state. In such planning or
420 purchasing, the office of Supplier Diversity ~~of Supplier Diversity~~ may monitor to
421 ensure that opportunities are afforded for contracting with
422 minority business enterprises. The department, for state term
423 contracts, and all agencies, for multiyear contractual services
424 or term contracts, shall explore reasonable and economical means
425 to use ~~utilize~~ certified minority business enterprises.
426 Purchases by any county, municipality, private nonprofit
427 community transportation coordinator designated pursuant to
428 chapter 427, ~~while~~ conducting business related solely to the
429 Commission for the Transportation Disadvantaged, or other local
430 public agency under the provisions in the state purchasing
431 contracts, and purchases, from the corporation operating the
432 correctional work programs, of products or services that are
433 subject to paragraph (1)(c) ~~(1)(f)~~, are exempt from the
434 competitive solicitation requirements otherwise applying to
435 their purchases.

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436 (b) As an alternative to ~~any provision in~~ s. 120.57(3)(c),
437 the department may proceed with the competitive solicitation or
438 contract award process of a term contract if ~~when~~ the secretary
439 of the department or his or her designee sets forth in writing
440 particular facts and circumstances that ~~which~~ demonstrate that
441 the delay incident to staying the solicitation or contract award
442 process would be detrimental to the interests of the state. If,
443 after the award of the ~~a~~ contract resulting from a competitive
444 solicitation in which a timely protest was received and in which
445 the state did not prevail, the contract may be canceled and
446 reawarded.

447 (c) Any person who files an action protesting a decision or
448 intended decision pertaining to contracts administered by the
449 department, a water management district, or an agency pursuant
450 to s. 120.57(3)(b) shall post with the department, the water
451 management district, or the agency at the time of filing the
452 formal written protest a bond payable to the department, the
453 water management district, or agency in an amount equal to 1
454 percent of the estimated contract amount. For protests of
455 decisions or intended decisions pertaining to exceptional
456 purchases, the bond must ~~shall be in an amount~~ equal ~~to~~ 1
457 percent of the estimated contract amount for the exceptional
458 purchase.

459 1. The estimated contract amount shall be based upon the
460 contract price submitted by the protestor or, if no contract
461 price was submitted, the department, water management district,
462 or agency shall estimate the contract amount based on factors,
463 including, but not limited to, the price of previous or existing
464 contracts for similar commodities or contractual services, the

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465 amount appropriated by the Legislature for the contract, or the
466 fair market value of similar commodities or contractual
467 services. The agency shall provide the estimated contract amount
468 to the vendor within 72 hours, excluding Saturdays, Sundays, and
469 state holidays, after the filing of the notice of protest by the
470 vendor. The estimated contract amount is not subject to protest
471 pursuant to s. 120.57(3).

472 2. The bond shall be conditioned upon the payment of all
473 costs and charges that are adjudged against the protestor in the
474 administrative hearing in which the action is brought and in any
475 subsequent appellate court proceeding.

476 3. In lieu of a bond, the department, ~~the~~ water management
477 district, or agency may, ~~in either case,~~ accept a cashier's
478 check, official bank check, or money order in the amount of the
479 bond.

480 4. If, after completion of the administrative hearing
481 process and any appellate court proceedings, the department,
482 water management district, or agency prevails, it shall recover
483 all costs and charges, which must ~~shall~~ be included in the final
484 order or judgment, excluding attorney ~~attorney's~~ fees. ~~This~~
485 ~~section shall not apply to protests filed by the Office of~~
486 ~~Supplier Diversity.~~ Upon payment of such costs and charges by
487 the protestor, the bond, cashier's check, official bank check,
488 or money order shall be returned to the protestor. If, after the
489 completion of the administrative hearing process and any
490 appellate court proceedings, the protestor prevails, the
491 protestor may ~~shall~~ recover from the department, water
492 management district, or agency all costs and charges that are
493 ~~which shall be~~ included in the final order or judgment,

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494 excluding attorney ~~attorney's~~ fees.

495 5. This paragraph does not apply to protests filed by the
496 office.

497 ~~(3) To establish a system of coordinated, uniform~~
498 ~~procurement policies, procedures, and practices to be used by~~
499 ~~agencies in acquiring commodities and contractual services,~~
500 ~~which shall include, but not be limited to:~~

501 ~~(a) Development of a list of interested vendors to be~~
502 ~~maintained by classes of commodities and contractual services.~~
503 ~~This list shall not be used to prequalify vendors or to exclude~~
504 ~~any interested vendor from bidding.~~

505 ~~(b)1. Development of procedures for advertising~~
506 ~~solicitations. These procedures must provide for electronic~~
507 ~~posting of solicitations for at least 10 days before the date~~
508 ~~set for receipt of bids, proposals, or replies, unless the~~
509 ~~department or other agency determines in writing that a shorter~~
510 ~~period of time is necessary to avoid harming the interests of~~
511 ~~the state. The Office of Supplier Diversity may consult with the~~
512 ~~department regarding the development of solicitation~~
513 ~~distribution procedures to ensure that maximum distribution is~~
514 ~~afforded to certified minority business enterprises as defined~~
515 ~~in s. 288.703.~~

516 ~~2. Development of procedures for electronic posting. The~~
517 ~~department shall designate a centralized website on the Internet~~
518 ~~for the department and other agencies to electronically post~~
519 ~~solicitations, decisions or intended decisions, and other~~
520 ~~matters relating to procurement.~~

521 ~~(c) Development of procedures for the receipt and opening~~
522 ~~of bids, proposals, or replies by an agency. Such procedures~~

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523 shall provide the Office of Supplier Diversity an opportunity to
524 monitor and ensure that the contract award is consistent with
525 the requirements of s. 287.09451.

526 ~~(d) Development of procedures to be used by an agency in~~
527 ~~deciding to contract, including, but not limited to, identifying~~
528 ~~and assessing in writing project needs and requirements,~~
529 ~~availability of agency employees, budgetary constraints or~~
530 ~~availability, facility equipment availability, current and~~
531 ~~projected agency workload capabilities, and the ability of any~~
532 ~~other state agency to perform the services.~~

533 ~~(e) Development of procedures to be used by an agency in~~
534 ~~maintaining a contract file for each contract which shall~~
535 ~~include, but not be limited to, all pertinent information~~
536 ~~relating to the contract during the preparatory stages; a copy~~
537 ~~of the solicitation; documentation relating to the solicitation~~
538 ~~process; opening of bids, proposals, or replies; evaluation and~~
539 ~~tabulation of bids, proposals, or replies; and determination and~~
540 ~~notice of award of contract.~~

541 ~~(f) Development of procedures to be used by an agency for~~
542 ~~issuing solicitations that include requirements to describe~~
543 ~~commodities, services, scope of work, and deliverables in a~~
544 ~~manner that promotes competition.~~

545 ~~(g) Development of procedures to be used by an agency when~~
546 ~~issuing requests for information and requests for quotes.~~

547 ~~(h) Development of procedures to be used by state agencies~~
548 ~~when procuring information technology commodities and~~
549 ~~contractual services that ensure compliance with public records~~
550 ~~requirements and records retention and archiving requirements.~~

551 ~~(4) (a) To prescribe the methods of securing competitive~~

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552 ~~sealed bids, proposals, and replies. Such methods may include,~~
553 ~~but are not limited to, procedures for identifying vendors;~~
554 ~~setting qualifications; conducting conferences or written~~
555 ~~question and answer periods for purposes of responding to vendor~~
556 ~~questions; evaluating bids, proposals, and replies; ranking and~~
557 ~~selecting vendors; and conducting negotiations.~~

558 ~~(b) To prescribe procedures for procuring information~~
559 ~~technology and information technology consultant services that~~
560 ~~provide for public announcement and qualification, competitive~~
561 ~~solicitations, contract award, and prohibition against~~
562 ~~contingent fees. Such procedures are limited to information~~
563 ~~technology consultant contracts for which the total project~~
564 ~~costs, or planning or study activities, are estimated to exceed~~
565 ~~the threshold amount provided in s. 287.017, for CATEGORY TWO.~~

566 ~~(3)(5) To prescribe specific commodities and quantities to~~
567 ~~be purchased locally.~~

568 ~~(6)(a) To govern the purchase by any agency of any~~
569 ~~commodity or contractual service and to establish standards and~~
570 ~~specifications for any commodity.~~

571 ~~(4)(b) Except for the purchase of insurance, to the~~
572 ~~department may delegate to agencies the authority for the~~
573 ~~procurement of and contracting for commodities or contractual~~
574 ~~services.~~

575 ~~(7) To establish definitions and classes of commodities and~~
576 ~~contractual services. Agencies shall follow the definitions and~~
577 ~~classes of commodities and contractual services established by~~
578 ~~the department in acquiring or purchasing commodities or~~
579 ~~contractual services. The authority of the department under this~~
580 ~~section shall not be construed to impair or interfere with the~~

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581 ~~determination by state agencies of their need for, or their use~~
582 ~~of, services including particular specifications.~~

583 ~~(8) To provide any commodity and contractual service~~
584 ~~purchasing rules to the Chief Financial Officer and all agencies~~
585 ~~through an electronic medium or other means. Agencies may not~~
586 ~~approve any account or request any payment of any account for~~
587 ~~the purchase of any commodity or the procurement of any~~
588 ~~contractual service covered by a purchasing or contractual~~
589 ~~service rule except as authorized therein. The department shall~~
590 ~~furnish copies of rules adopted by the department to any county,~~
591 ~~municipality, or other local public agency requesting them.~~

592 ~~(5)-(9)~~ To require that every agency furnish information
593 relative to its commodity and contractual services purchases and
594 methods of purchasing commodities and contractual services to
595 the department when so requested.

596 ~~(6)-(10)~~ To prepare statistical data concerning the method
597 of procurement, terms, usage, and disposition of commodities and
598 contractual services by agencies. All agencies shall furnish
599 such information for this purpose to the office and to the
600 department, as the department or office may call for, but at
601 least ~~no less frequently than~~ annually, on such forms or in such
602 manner as the department may prescribe.

603 ~~(11) To establish and maintain programs for the purpose of~~
604 ~~disseminating information to government, industry, educational~~
605 ~~institutions, and the general public concerning policies,~~
606 ~~procedures, rules, and forms for the procurement of commodities~~
607 ~~and contractual services.~~

608 ~~(7)-(12)~~ Except as otherwise provided in this section
609 herein, to adopt rules necessary to carry out the purposes of

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610 this section, including the authority to delegate to any agency
611 any and all of the responsibility conferred by this section,
612 retaining to the department any and all authority for
613 supervision thereof. Such purchasing of commodities and
614 procurement of contractual services by state agencies must also
615 ~~shall~~ be in strict accordance with the rules and procedures
616 prescribed by the Department of Financial Services.

617 (8)~~(13)~~ If the department determines in writing that it is
618 in the best interest of the state, to award to multiple
619 suppliers contracts for commodities and contractual services
620 established by the department for use by all agencies. Such
621 awards may be on a statewide or regional basis. If regional
622 contracts are established by the department, multiple supplier
623 awards may be based upon multiple awards for regions. Agencies
624 may award contracts to a responsible and responsive vendor on a
625 statewide or regional basis.

626 (9)~~(14)~~ To procure and distribute federal surplus tangible
627 personal property allocated to the state by the Federal
628 Government.

629 (10)~~(15)~~ To enter into joint agreements with governmental
630 agencies, as defined in s. 163.3164, for the purpose of pooling
631 funds for the purchase of commodities or information technology
632 that can be used by multiple agencies.

633 (a) Each agency that has been appropriated or has existing
634 funds for such purchase, shall, upon contract award by the
635 department, transfer their portion of the funds into the
636 department's Operating Trust Fund for payment by the department.
637 The funds shall be transferred by the Executive Office of the
638 Governor pursuant to the agency budget amendment request

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639 provisions in chapter 216.

640 (b) Agencies that sign the joint agreements are financially
641 obligated for their portion of the agreed-upon funds. If an
642 agency becomes more than 90 days delinquent in paying the funds,
643 the department shall certify to the Chief Financial Officer the
644 amount due, and the Chief Financial Officer shall transfer the
645 amount due to the Operating Trust Fund of the department from
646 any of the agency's available funds. The Chief Financial Officer
647 shall report these transfers and the reasons for the transfers
648 to the Executive Office of the Governor and the legislative
649 appropriations committees.

650 (11)~~(16)~~ To evaluate contracts let by the Federal
651 Government, another state, or a political subdivision for the
652 provision of commodities and contract services, and, if it is
653 determined in writing to be cost-effective and in the best
654 interest of the state, to enter into a written agreement
655 authorizing an agency to make purchases under such contract.

656 (12)~~(17)~~~~(a)~~ To enter into contracts pursuant to chapter 957
657 for the designing, financing, acquiring, leasing, constructing,
658 or operating of private correctional facilities. The department
659 shall enter into such ~~a contract or~~ contracts with one
660 contractor per facility ~~for the designing, acquiring, financing,~~
661 ~~leasing, constructing, and operating of that facility~~ or may, if
662 specifically authorized by the Legislature, separately contract
663 for each of ~~any~~ such services.

664 (a)~~(b)~~ The department shall also ~~To~~ manage and enforce
665 compliance with existing or future contracts entered into
666 pursuant to chapter 957.

667 (b) The department may not delegate the responsibilities

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668 conferred by this subsection.

669 Section 7. Effective October 1, 2013, section 287.044,
670 Florida Statutes, is created to read:

671 287.044 Powers, duties, and functions of the Department of
672 Financial Services.—The Department of Financial Services is
673 responsible for establishing and enforcing procurement and
674 contracting policies and procedures for the Department of
675 Management Services and all agencies. The Department of
676 Financial Services has the following powers, duties, and
677 functions:

678 (1) To establish a system of coordinated and uniform
679 procurement policies, procedures, and practices to be used by
680 agencies when acquiring commodities and contractual services,
681 which includes, but is not limited to:

682 (a) The development of procedures to be used by an agency
683 for issuing or advertising solicitations which include
684 requirements for the agency to describe commodities, services,
685 scope of work, and deliverables in a manner that promotes
686 competition.

687 1. Such procedures must provide for electronic posting of
688 solicitations at least 10 days before the date set for receipt
689 of bids, proposals, or replies, unless the agency determines in
690 writing that a shorter period of time is necessary to avoid
691 harming the interests of the state.

692 2. The office may consult with the department regarding the
693 development of solicitation distribution procedures to ensure
694 that maximum distribution is afforded to certified minority
695 business enterprises as defined in s. 288.703.

696 3. The department shall designate a centralized website on

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697 the Internet for the department and other agencies to
698 electronically post solicitations, decisions or intended
699 decisions, and other matters relating to procurement.

700 (b) The development of procedures to be used by an agency
701 when issuing requests for information and requests for quotes.

702 (c) The development of procedures to be used by state
703 agencies when procuring information technology commodities and
704 contractual services which ensure compliance with public records
705 requirements and records retention and archiving requirements.

706 (d) The development of procedures for the receipt and
707 opening of bids, proposals, or replies by an agency. Such
708 procedures must provide the office an opportunity to monitor and
709 to ensure that the contract award is consistent with the
710 requirements of s. 287.09451.

711 (e) The development of procedures to be used by an agency
712 in deciding to contract, including, but not limited to,
713 identifying and assessing in writing project needs and
714 requirements, availability of agency employees, budgetary
715 availability or constraints, availability of facility equipment,
716 current and projected agency workload capabilities, and the
717 ability of another state agency to perform the services.

718 (f) The development of procedures for recording and
719 maintaining support documentation for a cost or price analysis
720 to be performed before the award of a contract in excess of the
721 threshold amount provided in s. 287.017 for CATEGORY FOUR. The
722 cost or price analysis shall be used to validate the
723 reasonableness of bids, proposals, or replies.

724 (g) The development of procedures to be used by state
725 agencies when entering into contracts which ensure standard

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726 formats, quantifiable and measurable deliverables, performance
727 measures, and financial consequences for nonperformance.

728 (h) The development of procedures to be used by an agency
729 in maintaining a contract file for each contract which includes,
730 but is not limited to, all pertinent information relating to the
731 contract during the preparatory stages; the solicitation
732 process, including a copy of the solicitation; the opening of
733 bids, proposals, or replies; the evaluation and tabulation of
734 bids, proposals, or replies; and the determination and notice of
735 contract award.

736 (2) To prescribe the methods of securing competitive sealed
737 bids, proposals, and replies. Such methods may include, but are
738 not limited to, procedures for identifying vendors; setting
739 qualifications; conducting conferences or written question and
740 answer periods for purposes of responding to vendor questions;
741 evaluating bids, proposals, and replies; ranking and selecting
742 vendors; and conducting negotiations.

743 (3) To prescribe procedures for procuring information
744 technology and information technology consultant services which
745 provide for public announcement and qualification, competitive
746 solicitations, the contract award, and a prohibition against
747 contingent fees. Such procedures are limited to information
748 technology consultant contracts for which the total project
749 costs, or planning or study activities, are estimated to exceed
750 the threshold amount provided in s. 287.017 for CATEGORY TWO.

751 (4) To govern the purchase by an agency of any commodity or
752 contractual service and to establish standards and
753 specifications for a commodity. The Chief Financial Officer
754 shall establish definitions and classes of commodities and

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755 contractual services which agencies must adhere to in acquiring
756 or purchasing commodities or contractual services. The
757 department's authority under this section may not impair or
758 interfere with an agency's determination of its need for, or use
759 of, services that include particular specifications.

760 (5) To provide to agencies through an electronic medium or
761 other means rules for purchasing commodities and contractual
762 services. Agencies may not approve any account, or request
763 payment of any account, for the purchase of any commodity or the
764 procurement of any contractual service covered by a purchasing
765 or contractual service rule except as authorized by such rule.
766 The department shall furnish copies of rules adopted by the
767 department to any county, municipality, or other local public
768 agency requesting them.

769 (6) To establish and maintain programs that disseminate
770 information to governmental entities, industry vendors,
771 educational institutions, and the general public concerning
772 policies, procedures, rules, and forms for the procurement of
773 commodities and contractual services.

774 (7) To establish and maintain a list of vendors that are
775 not allowed to do business with the state pursuant to ss.
776 287.132(4) and 287.133. The department may add to the list
777 vendors that are not compliant with federal or state laws, or
778 that the department determines have uncollected accounts that
779 are owed to the state.

780 Section 8. Paragraph (f) of subsection (3) and subsections
781 (9), (14), and (16) of section 287.057, Florida Statutes, are
782 amended, and subsection (24) is added to that section, to read:
783 287.057 Procurement of commodities or contractual

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784 services.—

785 (3) When the purchase price of commodities or contractual
786 services exceeds the threshold amount provided in s. 287.017 for
787 CATEGORY TWO, no purchase of commodities or contractual services
788 may be made without receiving competitive sealed bids,
789 competitive sealed proposals, or competitive sealed replies
790 unless:

791 (f) The following contractual services and commodities are
792 not subject to the competitive-solicitation requirements of this
793 section:

794 ~~1. Artistic services. For the purposes of this subsection,~~
795 ~~the term "artistic services" does not include advertising or~~
796 ~~typesetting. As used in this subparagraph, the term~~
797 ~~"advertising" means the making of a representation in any form~~
798 ~~in connection with a trade, business, craft, or profession in~~
799 ~~order to promote the supply of commodities or services by the~~
800 ~~person promoting the commodities or contractual services.~~

801 ~~2. Academic program reviews if the fee for such services~~
802 ~~does not exceed \$50,000.~~

803 ~~3. Lectures by individuals.~~

804 1.4. Legal services, including attorney, paralegal, expert
805 witness, appraisal, or mediator services.

806 2.5.a. Health services involving examination, diagnosis,
807 treatment, prevention, medical consultation, or administration,
808 and,

809 ~~b.~~ beginning January 1, 2011, health services, including,
810 but not limited to, substance abuse and mental health services,
811 involving examination, diagnosis, treatment, prevention, or
812 medical consultation, if ~~when~~ such services are offered to

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813 eligible individuals participating in a specific program that
814 qualifies multiple providers and uses a standard payment
815 methodology. Reimbursement of administrative costs for providers
816 of services purchased in this manner are ~~shall~~ also be exempt.
817 For purposes of this subparagraph ~~sub-subparagraph~~, the term
818 "providers" means health professionals, health facilities, or
819 organizations that deliver or arrange for the delivery of health
820 services.

821 ~~3.6.~~ Services provided to persons with mental or physical
822 disabilities by not-for-profit corporations that ~~which~~ have
823 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the
824 United States Internal Revenue Code or if ~~when~~ such services are
825 governed by the provisions of Office of Management and Budget
826 Circular A-122. However, in acquiring such services, the agency
827 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
828 performance, willingness to meet time requirements, and price.

829 ~~4.7.~~ Medicaid services delivered to an eligible Medicaid
830 recipient, unless the agency is directed otherwise in law.

831 ~~5.8.~~ Family placement services.

832 ~~6.9.~~ Prevention services related to mental health,
833 including drug abuse prevention programs, child abuse prevention
834 programs, and shelters for runaways, operated by not-for-profit
835 corporations. However, in acquiring such services, the agency
836 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
837 performance, willingness to meet time requirements, and price.

838 ~~10.~~ Training and education services provided to injured
839 employees pursuant to s. 440.491(6).

840 ~~7.11.~~ Contracts entered into pursuant to s. 337.11.

841 ~~8.12.~~ Services or commodities provided by governmental

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842 agencies.

843 (9) An agency may ~~shall~~ not divide the solicitation of
844 commodities or contractual services so as to avoid the
845 requirements of subsections (1)-(3) and reduce the ability of
846 businesses to openly compete.

847 (14) For each contractual services contract, the agency
848 shall designate an employee to function as contract manager who
849 shall be responsible for enforcing performance of the contract
850 terms and conditions and serve as a liaison with the contractor.
851 Each contract manager who is responsible for one or more
852 contracts in excess of the threshold amount provided under s.
853 287.017 for CATEGORY FIVE TWO must be certified pursuant to s.
854 287.1312 attend training conducted by the Chief Financial
855 Officer for accountability in contracts and grant management.
856 The Chief Financial Officer shall establish and disseminate
857 uniform procedures pursuant to s. 17.03(3) to ensure that
858 contractual services have been rendered in accordance with the
859 contract terms before the agency processes the invoice for
860 payment. The procedures must ~~shall~~ include, but need not be
861 limited to, procedures for monitoring and documenting contractor
862 performance, reviewing and documenting all deliverables for
863 which payment is requested by vendors, and providing written
864 certification by contract managers of the agency's receipt of
865 goods and services.

866 (16) For a contract in excess of the threshold amount
867 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
868 appoint:

869 (a) At least three persons to evaluate proposals and
870 replies who collectively have experience and knowledge in the

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871 program areas and service requirements for which commodities or
872 contractual services are sought.

873 (b) At least three persons to conduct negotiations during a
874 competitive sealed reply procurement who collectively have
875 experience and knowledge in negotiating contracts, contract
876 procurement, and the program areas and service requirements for
877 which commodities or contractual services are sought. When the
878 value of a contract is in excess of \$1 million in any fiscal
879 year, at least one of the persons conducting negotiations must
880 be certified as a contract negotiator based upon rules adopted
881 by the Department of Financial Services ~~Management Services~~ in
882 order to ensure that certified contract negotiators are
883 knowledgeable about effective negotiation strategies, capable of
884 successfully implementing those strategies, and involved
885 appropriately in the procurement process. At a minimum, the
886 rules must address the qualifications required for
887 certification, the method of certification, and the procedure
888 for involving the certified negotiator. If the value of a
889 contract is in excess of \$10 million in any fiscal year, at
890 least one of the persons conducting negotiations must be a
891 Project Management Professional, as certified by the Project
892 Management Institute.

893 (24) An agency or other eligible user may purchase
894 commodities or services through another agency's existing
895 contract rather than through competitive competition if the use
896 of such contract is in the best interest of the state.

897 Section 9. Paragraph (e) of subsection (1) of section
898 287.058, Florida Statutes, is amended, and subsections (7)
899 through (11) are added to that section, to read:

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900 287.058 Contract document.—

901 (1) Every procurement of contractual services in excess of
902 the threshold amount provided in s. 287.017 for CATEGORY TWO,
903 except for the providing of health and mental health services or
904 drugs in the examination, diagnosis, or treatment of sick or
905 injured state employees or the providing of other benefits as
906 required by the provisions of chapter 440, shall be evidenced by
907 a written agreement embodying all provisions and conditions of
908 the procurement of such services, which shall, where applicable,
909 include, but not be limited to, a provision:

910 (e) Dividing the contract into quantifiable, measurable,
911 and verifiable units of deliverables which ~~that~~ must be received
912 and accepted in writing by the contract manager before payment.
913 Each deliverable must be directly related to the scope of work
914 and specify a performance measure. As used in this paragraph,
915 the term "performance measure" means the required minimum level
916 of service to be performed and criteria for evaluating the
917 successful completion of each deliverable.

918
919 In lieu of a written agreement, the department may authorize the
920 use of a purchase order for classes of contractual services, if
921 the provisions of paragraphs (a)-(i) are included in the
922 purchase order or solicitation. The purchase order must include,
923 but need not be limited to, an adequate description of the
924 services, the contract period, and the method of payment. In
925 lieu of printing the provisions of paragraphs (a)-(i) in the
926 contract document or purchase order, agencies may incorporate
927 the requirements of paragraphs (a)-(i) by reference.

928 (7) The Chief Financial Officer may review and approve

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929 contracts subject to this chapter before the execution of such
930 contracts in accordance with rules adopted by the department.
931 The review must ensure that all contracting laws have been met;
932 that the contract document contains a clear statement of work,
933 quantifiable and measureable deliverables, performance measures,
934 financial consequences for nonperformance, and clear terms and
935 conditions that protect the interests of the state; that
936 documentation is available to support the contract; and that the
937 associated costs of the contract are not unreasonable or
938 inappropriate. A contract that does not comply with this
939 subsection may be rejected and returned to the submitting agency
940 for revision.

941 (8) The Chief Financial Officer may establish dollar
942 thresholds and other criteria for sampling the agreements that
943 are to be reviewed prior to execution. The Chief Financial
944 Officer may revise such thresholds and other criteria for an
945 agency or the unit of any agency as he or she deems appropriate.

946 (9) The department's review of contract documentation may
947 include, but need not be limited to:

948 (a) Evidence of advertising the procurement opportunity, if
949 applicable;

950 (b) The bid, proposal, or reply itself, whether an
951 invitation to bid, request for proposals, or invitation to
952 negotiate, as applicable;

953 (c) The preprocurement conference questions and answers;

954 (d) Any additional documentation provided to bidders,
955 proposers, or repliers;

956 (e) The list of bidders, proposers, or repliers solicited;

957 (f) The evaluation instrument and process description

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- 958 related to the contract;
- 959 (g) The bid tabulation or evaluation record;
- 960 (h) Documentation that supports the agency's determination
- 961 of vendor responsibility;
- 962 (i) The successful bid, proposal, or reply in addition to
- 963 the unsuccessful bids, proposals, or replies;
- 964 (j) Documentation that supports the selection of the
- 965 contractor;
- 966 (k) The reasonableness of the price;
- 967 (l) Verification that all statutory and regulatory
- 968 requirements have been met; and
- 969 (m) The proposed contract.
- 970 (10) The department shall verify that a competitive process
- 971 was used, if required by law, and that the contract was
- 972 appropriately awarded on the basis of lowest price or best value
- 973 to a responsive and reasonable bidder, proposer, or replier. For
- 974 contracts not competitively awarded, the procurement record
- 975 shall be reviewed for restrictive specifications and the
- 976 agency's justification for the noncompetitive method used in
- 977 awarding the contract, including justification for the selection
- 978 of the vendor and the reasonableness of the terms.
- 979 (11) The department has 30 days to make a final
- 980 determination regarding approval of a contract. The department
- 981 and the agency entering into the contract may agree to a longer
- 982 review period to ensure the thorough consideration of the
- 983 procurement process and its results.
- 984 Section 10. Subsection (3) of section 287.095, Florida
- 985 Statutes, is repealed.
- 986 Section 11. Section 287.1312, Florida Statutes, is created

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987 to read:

988 287.1312 Contract manager certification.-

989 (1) The Department of Financial Services shall establish a
990 training certification program for contract and grant managers
991 and negotiators of contracts and grants. A state employee may
992 not manage a contract or grant agreement in excess of the
993 threshold amount provided in s. 287.017 for CATEGORY FIVE
994 without obtaining a valid certification from the Department of
995 Financial Services under this section. The program must include
996 training in the following areas:

997 (a) Procurement and the development of contracts.

998 (b) Development and administration of grant agreements
999 involving federal and state financial assistance.

1000 (c) Responsibilities of a contract manager in the
1001 management of state contracts and grant agreements.

1002 (d) Federal and state audit and reporting requirements.

1003 (e) Laws and rules relating to procurement and contract
1004 administration.

1005 (f) Any other subject matter that the Chief Financial
1006 Officer determines will promote accountability in contract and
1007 grant management.

1008 (2) The program shall provide for periodic recertification,
1009 as necessary. The Department of Financial Services shall
1010 determine course requirements, maintain information on
1011 certifications, and monitor the performance of contract and
1012 grant managers. As part of such monitoring, the department shall
1013 annually publish the results of agency manager audits and error
1014 rates related to contract and grant management on its website.

1015 (3) The Department of Financial Services may revoke a

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1016 manager's certification for incompetence or conduct inconsistent
1017 with the responsibilities of contract or grant management.

1018 (4) The Department of Financial Services shall adopt rules
1019 to administer this section.

1020 Section 12. Paragraph (d) of subsection (1) of section
1021 287.133, Florida Statutes, is amended to read:

1022 287.133 Public entity crime; denial or revocation of the
1023 right to transact business with public entities.-

1024 (1) As used in this section:

1025 (d) "Department" means the Department of Financial
1026 ~~Management~~ Services.

1027 Section 13. Paragraph (h) of subsection (3) of section
1028 255.25, Florida Statutes, is amended to read:

1029 255.25 Approval required prior to construction or lease of
1030 buildings.-

1031 (3)

1032 ~~(h) The Department of Management Services may,~~ Pursuant to
1033 s. 287.042(2)~~(a)~~, the department shall procure a term contract
1034 for real estate consulting and brokerage services. A state
1035 agency may not purchase services from the contract unless the
1036 contract has been procured under s. 287.057(1) after March 1,
1037 2007, and contains the following provisions or requirements:

1038 1. Awarded brokers ~~must~~ maintain an office or presence in
1039 the market served. In awarding the contract, preference must be
1040 given to brokers who ~~that~~ are licensed in this state under
1041 chapter 475 and who ~~that~~ have 3 or more years of experience in
1042 the market served. The contract may be made with up to three
1043 tenant brokers in order to serve the marketplace in the north,
1044 central, and south areas of the state.

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1045 2. Each contracted tenant broker works ~~shall work~~ under the
1046 direction, supervision, and authority of the state agency,
1047 subject to the rules governing lease procurements.

1048 3. The department provides ~~shall provide~~ training for the
1049 awarded tenant brokers concerning the rules governing the
1050 procurement of leases.

1051 4. Tenant brokers ~~must~~ comply with all applicable
1052 provisions of s. 475.278.

1053 5. Real estate consultants and tenant brokers are ~~shall be~~
1054 compensated by the state agency, subject to the provisions of
1055 the term contract, and such compensation is subject to
1056 appropriation by the Legislature. A real estate consultant or
1057 tenant broker may not receive compensation directly from a
1058 lessor for services that are rendered under the term contract.
1059 Moneys paid by a lessor to the state agency under a facility
1060 leasing arrangement are not subject to the charges imposed under
1061 s. 215.20. All terms relating to the compensation of the real
1062 estate consultant or tenant broker must ~~shall~~ be specified in
1063 the term contract and may not be supplemented or modified by the
1064 state agency using the contract.

1065 6. The department conducts ~~shall conduct~~ periodic customer-
1066 satisfaction surveys.

1067 7. Each state agency reports ~~shall report~~ the following
1068 information to the department:

1069 a. The number of leases that adhere to the goal of the
1070 workspace-management initiative of 180 square feet per full-time
1071 employee FTE.

1072 b. The quality of space leased and the adequacy of tenant-
1073 improvement funds.

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1074 c. The timeliness of lease procurement, measured from the
1075 date of the agency's request to the finalization of the lease.

1076 d. Whether cost-benefit analyses were performed before
1077 execution of the lease in order to ensure that the lease is in
1078 the best interest of the state.

1079 e. The lease costs compared to market rates for similar
1080 types and classifications of space according to the official
1081 classifications of the Building Owners and Managers Association.

1082 Section 14. Subsection (12) of section 287.012, Florida
1083 Statutes, is amended to read:

1084 287.012 Definitions.—As used in this part, the term:

1085 (12) "Exceptional purchase" means any purchase of
1086 commodities or contractual services excepted by law or rule from
1087 the requirements for competitive solicitation, including, but
1088 not limited to, purchases from a single source; purchases upon
1089 receipt of fewer ~~less~~ than two responsive bids, proposals, or
1090 replies; purchases made by an agency, after receiving approval
1091 from the department, from a contract procured, pursuant to s.
1092 287.057(1), or by another agency; and purchases made without
1093 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)
1094 ~~287.042(3)(b)~~.

1095 Section 15. Paragraph (a) of subsection (2) of section
1096 402.7305, Florida Statutes, is amended to read:

1097 402.7305 Department of Children and Family Services;
1098 procurement of contractual services; contract management.—

1099 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

1100 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, if
1101 ~~whenever~~ the department intends to contract with a public
1102 postsecondary institution to provide a service, the department

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1103 must allow all public postsecondary institutions in this state
1104 which ~~that~~ are accredited by the Southern Association of
1105 Colleges and Schools to bid on the contract. Thereafter,
1106 notwithstanding any other provision of law ~~to the contrary~~, if a
1107 public postsecondary institution intends to subcontract for any
1108 service awarded in the contract, the subcontracted service must
1109 be procured by competitive procedures.

1110 Section 16. Subsection (3) of section 427.0135, Florida
1111 Statutes, is amended to read:

1112 427.0135 Purchasing agencies; duties and responsibilities.—
1113 Each purchasing agency, in carrying out the policies and
1114 procedures of the commission, shall:

1115 (3) Not procure transportation disadvantaged services
1116 without initially negotiating with the commission, as provided
1117 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise
1118 authorized by statute. If the purchasing agency, after
1119 consultation with the commission, determines that it cannot
1120 reach mutually acceptable contract terms with the commission,
1121 the purchasing agency may contract for the same transportation
1122 services provided in a more cost-effective manner and of
1123 comparable or higher quality and standards. The Medicaid agency
1124 shall implement this subsection in a manner consistent with s.
1125 409.908(18) and as otherwise limited or directed by the General
1126 Appropriations Act.

1127 Section 17. Subsection (2) of section 946.515, Florida
1128 Statutes, is amended to read:

1129 946.515 Use of goods and services produced in correctional
1130 work programs.—

1131 (2) A ~~No~~ similar product or service of comparable price and

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1132 quality found necessary for use by any state agency may not be
1133 purchased from any source other than the corporation if the
1134 corporation certifies that the product is manufactured by, or
1135 the service is provided by, inmates and the product or service
1136 meets the comparable performance specifications and comparable
1137 price and quality requirements as specified under s.
1138 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual
1139 agency as provided in this section. The purchasing authority of
1140 ~~any~~ such state agency may make reasonable determinations of
1141 need, price, and quality with reference to products or services
1142 available from the corporation. In the event of a dispute
1143 between the corporation and a ~~any~~ purchasing authority based
1144 upon price or quality under this section or s. 287.042(1)(c)
1145 ~~287.042(1)(f)~~, either party may request a hearing with the
1146 Department of Management Services and, if not resolved, ~~either~~
1147 ~~party~~ may request a proceeding pursuant to ss. 120.569 and
1148 120.57, which shall be referred to the Division of
1149 Administrative Hearings within 60 days after such request, to
1150 resolve any dispute under this section. A ~~No~~ party is not
1151 entitled to any appeal pursuant to s. 120.68.

1152 Section 18. Procurement review and report.-

1153 (1) The Chief Financial Officer shall review and
1154 investigate:

1155 (a) All current state laws that govern the state
1156 procurement of goods, services, and facilities;

1157 (b) The procurement policies, rules, procedures, and
1158 practices followed by the state agencies, boards, commissions,
1159 offices, and other instrumentalities of the executive branch of
1160 state government;

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1161 (c) The organization and management processes involved in
1162 the state procurement of goods, services, and facilities before
1163 the award of a state procurement contract, during the
1164 solicitation of bids, the evaluation, and the negotiation of a
1165 contract, and subsequent to the award of the contract to
1166 determine the extent to which these organization and management
1167 processes facilitate the legislative policy set forth in this
1168 act; and

1169 (d) Any other areas that the Chief Financial Officer deems
1170 relevant to the review and investigation.

1171 (2) In order to accomplish the procurement review directed
1172 by this section, the Chief Financial Officer may:

1173 (a) Acquire information directly from the head of any state
1174 department or agency for the purpose of conducting this review.
1175 All departments and agencies shall cooperate with the Chief
1176 Financial Officer and furnish all information requested to the
1177 extent permitted by law.

1178 (b) Procure the services of experts and consultants.

1179 (c) Contract with private organizations and nonprofit
1180 institutions to carry out studies and prepare reports to
1181 facilitate the review.

1182 (3) By December 31, 2012, the Chief Financial Officer shall
1183 submit to the Governor, the President of the Senate, and the
1184 Speaker of the House of Representatives a report of findings and
1185 recommendations for changes in statutes, rules, policies,
1186 procedures, and organization necessary to carry out the policies
1187 set forth in this act.

1188 Section 19. The Legislature recognizes the need to reform
1189 the purchasing cycle, from the development of a purchasing

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1190 agreement to the payment for goods or services provided to the
1191 state. Therefore, chapter 287, Florida Statutes, is repealed
1192 effective July 30, 2014.

1193 Section 20. (1) For the 2012-2013 fiscal year, the sum of
1194 \$400,000 in nonrecurring funds is appropriated from the
1195 Administrative Trust Fund in the Department of Financial
1196 Services to contract for the Chief Financial Officer's review of
1197 the state's procurement process.

1198 (2) For the 2012-2013 fiscal year, the sum of \$375,000 in
1199 nonrecurring funds is appropriated from the Administrative Trust
1200 Fund in the Department of Financial Services to contract for the
1201 Chief Financial Officer's administration of the certified
1202 contract manager and negotiator programs.

1203 (3) For the 2012-2013 fiscal year, the sum of \$X00,000 in
1204 recurring funds from the General Revenue fund and full-time
1205 equivalent positions and associated salary rate of are
1206 appropriated to the Chief Financial Officer for the purpose of
1207 implementing the Chief Financial Officer's expanded contract
1208 auditing responsibilities under this act. Funds remaining
1209 unexpended or unencumbered from this appropriation as of June
1210 30, 2013, shall revert and be reappropriated for the same
1211 purpose in the 2013-2014 fiscal year.

1212 Section 21. Except as otherwise expressly provided in this
1213 act, this act shall take effect July 1, 2012.