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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2012	.	
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The Committee on Budget (Gaetz) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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



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14 (i) Beginning in 2012, the Auditor General shall annually  
15 transmit by July 15, to the President of the Senate, the Speaker  
16 of the House of Representatives, and the Department of Financial  
17 Services, a list of all school districts, charter schools,  
18 charter technical career centers, Florida College System  
19 institutions, state universities, and water management districts  
20 that have failed to comply with the transparency requirements of  
21 s. 215.985 as identified in the audit reports reviewed pursuant  
22 to paragraph (b) and those conducted pursuant to subsection (2).

23 Section 2. Subsection (16) of section 215.985, Florida  
24 Statutes, is amended to read

25 215.985 Transparency in government spending.—

26 (16) The Chief Financial Officer shall provide public  
27 access to a state contract management system ~~that provides~~  
28 ~~information and documentation relating to contracts procured by~~  
29 ~~governmental entities.~~

30 (a) Within 30 calendar days after executing a contract,  
31 each state agency as defined in s. 216.011(1) must post the  
32 following information and documentation relating to that  
33 contract on the contract management system:

34 1. The name of the contracting entities;

35 2. The procurement method;

36 3. The contract beginning and ending dates;

37 4. The nature or type of the commodities or services  
38 purchased;

39 5. Applicable contract unit prices and deliverables;

40 6. Total compensation to be paid or received under the  
41 contract;

42 7. All payments made to the contract vendor to date;



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43 8. All commodities or services received from the contract  
44 vendor to date;

45 9. Applicable contract performance measures;

46 10. Contract extensions or renewals, if any;

47 11. The justification for not using competitive  
48 solicitation to procure the contract, including citation to any  
49 statutory exemption or exception from competitive solicitation,  
50 if applicable; and

51 12. Electronic copies of the contract and procurement  
52 documents that have been redacted to conceal exempt or  
53 confidential information.

54 ~~(a) The data collected in the system must include, but need~~  
55 ~~not be limited to, the contracting agency; the procurement~~  
56 ~~method; the contract beginning and ending dates; the type of~~  
57 ~~commodity or service; the purpose of the commodity or service;~~  
58 ~~the compensation to be paid; compliance information, such as~~  
59 ~~performance metrics for the service or commodity; contract~~  
60 ~~violations; the number of extensions or renewals; and the~~  
61 ~~statutory authority for providing the service.~~

62 (b) Within 30 calendar days after a major modification or  
63 amendment ~~change~~ to an existing contract, ~~or the execution of a~~  
64 ~~new contract, agency procurement staff of the affected state~~  
65 ~~governmental entity~~ must ~~shall~~ update the ~~necessary~~ information  
66 described in paragraph (a) in the state contract management  
67 system. A major modification or amendment ~~change~~ to a contract  
68 includes, but is not limited to, a renewal, termination, or  
69 extension of the contract, or an amendment to the contract.

70 (c) Each entity identified in paragraph (a) must redact, as  
71 defined in s. 119.011, any exempt or confidential information



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72 from the contract or procurement documents before posting an  
73 electronic copy of such documents on the contract tracking  
74 system.

75 1. If an entity becomes aware that an electronic copy of a  
76 contract or procurement document that it posted has not been  
77 properly redacted, the entity must replace the electronic copy  
78 of the documents with a redacted copy.

79 2. If a party to a contract, or an authorized  
80 representative thereof, discovers that an electronic copy of a  
81 contract or procurement document on the system has not been  
82 properly redacted, the party or representative may request the  
83 entity that posted the document to redact the exempt or  
84 confidential information. Upon receipt of a request in  
85 compliance with this subparagraph, the entity that posted the  
86 document shall redact the exempt or confidential information.

87 a. Such request must be in writing and delivered by mail,  
88 facsimile, or electronic transmission, or in person to the  
89 entity that posted the information. The request must identify  
90 the specific document, the page numbers that include the exempt  
91 or confidential information, the information that is exempt or  
92 confidential, and the relevant statutory exemption. A fee may  
93 not be charged for a redaction made pursuant to such request.

94 b. If necessary, a party to the contract may petition the  
95 circuit court for an order directing compliance with this  
96 paragraph.

97 3. The Chief Financial Officer, the Department of Financial  
98 Services, or any officer, employee, or contractor thereof, is  
99 not responsible for redacting exempt or confidential information  
100 from an electronic copy of a contract or procurement document



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101 posted by another entity on the system, and is not liable for  
102 the failure of the entity to redact the exempt or confidential  
103 information. The Department of Financial Services may notify the  
104 posting entity if it discovers that a document posted on the  
105 tracking system contains exempt or confidential information.

106 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial  
107 Officer may make information posted on the contract tracking  
108 system available for viewing and downloading by the public  
109 through a secure website. Unless otherwise provided by law,  
110 information retrieved electronically pursuant to this paragraph  
111 is not admissible in court as an authenticated document.

112 1. The Chief Financial Officer may regulate and prohibit  
113 the posting of records that could facilitate identity theft or  
114 fraud, such as signatures; compromise or reveal an agency  
115 investigation; reveal the identity of undercover personnel;  
116 reveal proprietary confidential business information or trade  
117 secrets; reveal an individual's medical information; or reveal  
118 any other record or information that the Chief Financial Officer  
119 believes may jeopardize the health, safety, or welfare of the  
120 public. However, such prohibition does not eliminate the duty of  
121 an entity to provide a copy of a public record upon request. The  
122 Chief Financial Officer shall use appropriate Internet security  
123 measures to ensure that no person has the ability to alter or  
124 modify records available on the website.

125 2. Records made available on the website, including  
126 electronic copies of contracts or procurement documents, may not  
127 reveal information made exempt or confidential by law. Notice of  
128 the right of an affected party to request redaction of exempt or  
129 confidential information pursuant to paragraph (c) must be



130 conspicuously and clearly displayed on the website.

131 (e) The posting of information on the contract tracking  
132 system or the provision of contract information on a website for  
133 public viewing and downloading does not eliminate the duty of an  
134 entity to respond to a public record request for such  
135 information or to a subpoena for such information.

136 1. A request for a copy of a contract or procurement  
137 document or a certified copy of a contract or procurement  
138 document shall be made to the entity that is party to the  
139 contract. Such request may not be made to the Chief Financial  
140 Officer or the Department of Financial Services or any officer,  
141 employee, or contractor thereof unless the Chief Financial  
142 Officer or the department is a party to the contract.

143 2. A subpoena for a copy of a contract or procurement  
144 document or certified copy of a contract or procurement document  
145 must be served on the entity that is a party to the contract and  
146 that maintains the original documents. The Chief Financial  
147 Officer or the Department of Financial Services or any officer,  
148 employee, or contractor thereof may not be served a subpoena for  
149 those records unless the Chief Financial Officer or the  
150 department is a party to the contract.

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

153 Section 3. Section 216.0111, Florida Statutes, is repealed.

154 Section 4. This act shall take effect July 1, 2012.

155  
156 ===== T I T L E A M E N D M E N T =====

157 And the title is amended as follows:

158 Delete everything before the enacting clause



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159 and insert:

160                   A bill to be entitled  
161           An act relating to state contracting; amending s.  
162           11.45, F.S.; conforming provisions to changes made by  
163           the act; amending s. 215.985, F.S.; revising  
164           provisions relating to the Chief Financial Officer's  
165           intergovernmental contract tracking system under the  
166           Transparency Florida Act; requiring state agencies to  
167           post certain information in the tracking system and to  
168           update that information; requiring that exempt and  
169           confidential information be redacted from contracts  
170           and procurement documents posted on the system;  
171           authorizing the Chief Financial Officer to make  
172           available the information posted on the system to the  
173           public through a secure website; authorizing the  
174           Department of Financial Services to adopt rules;  
175           repealing s. 216.0111, F.S., relating to a requirement  
176           that state agencies report certain contract  
177           information to the Department of Financial Services  
178           and transferring that requirement to s. 215.985, F.S.;  
179           providing an effective date.