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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. 215.985, F.S.; revising  
5           provisions relating to the Chief Financial Officer's  
6           intergovernmental contract tracking system under the  
7           Transparency Florida Act; requiring state agencies to  
8           post certain information in the tracking system and to  
9           update that information; requiring that exempt and  
10          confidential information be redacted from contracts  
11          and procurement documents posted on the system;  
12          authorizing the Chief Financial Officer to make  
13          available the information posted on the system to the  
14          public through a secure website; authorizing the  
15          Department of Financial Services to adopt rules;  
16          repealing s. 216.0111, F.S., relating to a requirement  
17          that state agencies report certain contract  
18          information to the Department of Financial Services  
19          and transferring that requirement to s. 215.985, F.S.;  
20          providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Paragraphs (a) and (i) of subsection (7) of  
25   section 11.45, Florida Statutes, are amended to read:

26           11.45 Definitions; duties; authorities; reports; rules.—

27           (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

28           (a) The Auditor General must ~~shall~~ notify the Legislative  
29   Auditing Committee of any local governmental entity, district

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30 school board, charter school, or charter technical career center  
31 that does not comply with the reporting requirements of s.  
32 215.985 or s. 218.39.

33 (i) Beginning in 2012, the Auditor General shall annually  
34 transmit by July 15, to the President of the Senate, the Speaker  
35 of the House of Representatives, and the Department of Financial  
36 Services, a list of all school districts, charter schools,  
37 charter technical career centers, Florida College System  
38 institutions, state universities, and water management districts  
39 that have failed to comply with the transparency requirements of  
40 s. 215.985 as identified in the audit reports reviewed pursuant  
41 to paragraph (b) and those conducted pursuant to subsection (2).

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

44 215.985 Transparency in government spending.—

45 (16) The Chief Financial Officer shall provide public  
46 access to a state contract management system ~~that provides~~  
47 ~~information and documentation relating to contracts procured by~~  
48 ~~governmental entities.~~

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

53 1. The name of the contracting entities;

54 2. The procurement method;

55 3. The contract beginning and ending dates;

56 4. The nature or type of the commodities or services  
57 purchased;

58 5. Applicable contract unit prices and deliverables;

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- 59           6. Total compensation to be paid or received under the  
60 contract;
- 61           7. All payments made to the contract vendor to date;
- 62           8. All commodities or services received from the contract  
63 vendor to date;
- 64           9. Applicable contract performance measures;
- 65           10. Contract extensions or renewals, if any;
- 66           11. The justification for not using competitive  
67 solicitation to procure the contract, including citation to any  
68 statutory exemption or exception from competitive solicitation,  
69 if applicable; and
- 70           12. Electronic copies of the contract and procurement  
71 documents that have been redacted to conceal exempt or  
72 confidential information.
- 73           ~~(a) The data collected in the system must include, but need~~  
74 ~~not be limited to, the contracting agency; the procurement~~  
75 ~~method; the contract beginning and ending dates; the type of~~  
76 ~~commodity or service; the purpose of the commodity or service;~~  
77 ~~the compensation to be paid; compliance information, such as~~  
78 ~~performance metrics for the service or commodity; contract~~  
79 ~~violations; the number of extensions or renewals; and the~~  
80 ~~statutory authority for providing the service.~~
- 81           (b) Within 30 calendar days after a major modification or  
82 amendment ~~change~~ to an existing contract, ~~or the execution of a~~  
83 ~~new contract, agency procurement staff of the affected state~~  
84 ~~governmental entity~~ must ~~shall~~ update the ~~necessary~~ information  
85 described in paragraph (a) in the state contract management  
86 system. A major modification or amendment ~~change~~ to a contract  
87 includes, but is not limited to, a renewal, termination, or

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88 extension of the contract, or an amendment to the contract.

89 (c) Each entity identified in paragraph (a) must redact, as  
90 defined in s. 119.011, any exempt or confidential information  
91 from the contract or procurement documents before posting an  
92 electronic copy of such documents on the contract tracking  
93 system.

94 1. If an entity becomes aware that an electronic copy of a  
95 contract or procurement document that it posted has not been  
96 properly redacted, the entity must replace the electronic copy  
97 of the documents with a redacted copy.

98 2. If a party to a contract, or an authorized  
99 representative thereof, discovers that an electronic copy of a  
100 contract or procurement document on the system has not been  
101 properly redacted, the party or representative may request the  
102 entity that posted the document to redact the exempt or  
103 confidential information. Upon receipt of a request in  
104 compliance with this subparagraph, the entity that posted the  
105 document shall redact the exempt or confidential information.

106 a. Such request must be in writing and delivered by mail,  
107 facsimile, or electronic transmission, or in person to the  
108 entity that posted the information. The request must identify  
109 the specific document, the page numbers that include the exempt  
110 or confidential information, the information that is exempt or  
111 confidential, and the relevant statutory exemption. A fee may  
112 not be charged for a redaction made pursuant to such request.

113 b. If necessary, a party to the contract may petition the  
114 circuit court for an order directing compliance with this  
115 paragraph.

116 3. The Chief Financial Officer, the Department of Financial

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117 Services, or any officer, employee, or contractor thereof, is  
118 not responsible for redacting exempt or confidential information  
119 from an electronic copy of a contract or procurement document  
120 posted by another entity on the system, and is not liable for  
121 the failure of the entity to redact the exempt or confidential  
122 information. The Department of Financial Services may notify the  
123 posting entity if it discovers that a document posted on the  
124 tracking system contains exempt or confidential information.

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

131 1. The Chief Financial Officer may regulate and prohibit  
132 the posting of records that could facilitate identity theft or  
133 fraud, such as signatures; compromise or reveal an agency  
134 investigation; reveal the identity of undercover personnel;  
135 reveal proprietary confidential business information or trade  
136 secrets; reveal an individual's medical information; or reveal  
137 any other record or information that the Chief Financial Officer  
138 believes may jeopardize the health, safety, or welfare of the  
139 public. However, such prohibition does not eliminate the duty of  
140 an entity to provide a copy of a public record upon request. The  
141 Chief Financial Officer shall use appropriate Internet security  
142 measures to ensure that no person has the ability to alter or  
143 modify records available on the website.

144 2. Records made available on the website, including  
145 electronic copies of contracts or procurement documents, may not

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146 reveal information made exempt or confidential by law. Notice of  
147 the right of an affected party to request redaction of exempt or  
148 confidential information pursuant to paragraph (c) must be  
149 conspicuously and clearly displayed on the website.

150 (e) The posting of information on the contract tracking  
151 system or the provision of contract information on a website for  
152 public viewing and downloading does not eliminate the duty of an  
153 entity to respond to a public record request for such  
154 information or to a subpoena for such information.

155 1. A request for a copy of a contract or procurement  
156 document or a certified copy of a contract or procurement  
157 document shall be made to the entity that is party to the  
158 contract. Such request may not be made to the Chief Financial  
159 Officer or the Department of Financial Services or any officer,  
160 employee, or contractor thereof unless the Chief Financial  
161 Officer or the department is a party to the contract.

162 2. A subpoena for a copy of a contract or procurement  
163 document or certified copy of a contract or procurement document  
164 must be served on the entity that is a party to the contract and  
165 that maintains the original documents. The Chief Financial  
166 Officer or the Department of Financial Services or any officer,  
167 employee, or contractor thereof may not be served a subpoena for  
168 those records unless the Chief Financial Officer or the  
169 department is a party to the contract.

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

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

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