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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; repealing s.
22 216.0111, F.S., relating to a requirement that state
23 agencies report certain contract information to the
24 Department of Financial Services and transferring that
25 requirement to s. 215.985, F.S.; amending s. 287.032,
26 F.S.; dividing the responsibilities of the Department
27 of Management Services under ch. 287, F.S., with the
28 Department of Financial Services; amending s. 287.042,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 F.S.; limiting the duties of the Department of
30 Management Services to the procurement of commodities
31 and contractual services; directing the department to
32 develop a list of interested vendors; deleting
33 provisions requiring that the department perform
34 duties relating to procurement and contracting
35 policies and procedures; creating s. 287.044, F.S.;
36 assigning duties relating to procurement and
37 contracting policies and procedures to the Department
38 of Financial Services; requiring the department to
39 develop a list of vendors not allowed to do business
40 with the state; requiring the department to review and
41 approve contracts in accordance with rules adopted by
42 the department; providing that the department have
43 authority to waive procedures under certain
44 circumstances; providing that the department have
45 flexibility in accomplishing its duties and
46 responsibilities including the use of different
47 contracting methods on a pilot basis; amending s.
48 287.057, F.S.; revising the list of contractual
49 services and commodities that are exempt from
50 competitive solicitation to delete certain services
51 from the exemption; revising provisions prohibiting an
52 agency from dividing a solicitation; authorizing an
53 agency to purchase commodities or services through
54 another agency's contract; amending s. 287.058, F.S.;
55 requiring contracts to include a performance measure
56 for each deliverable; creating s. 287.1312, F.S.;

57 requiring certification of contract managers by the
58 Department of Financial Services for contracts of more
59 than a certain amount; requiring the training program
60 for the certification to provide training in certain
61 areas; authorizing the department to adopt rules to
62 administer the program; amending s. 287.133, F.S.;
63 revising the definition of "department" to mean the
64 Department of Financial Services rather than the
65 Department of Management Services with respect to
66 provisions governing public entity crimes and
67 placement on the convicted vendor list; amending ss.
68 255.25, 287.012, 402.7305, 427.0135, and 946.515,
69 F.S.; conforming cross-references; providing state
70 policies with regards to procurement and requiring the
71 Chief Financial Officer to conduct a study of current
72 procurement laws pursuant to such policies; requiring
73 that the Chief Financial Officer submit a report to
74 the Legislature and Governor by a certain date on such
75 study; repealing ch. 287, F.S., on a future date;
76 providing an appropriation; providing an effective
77 date.

78
79 WHEREAS, during the 2010-2011 fiscal year, the state spent
80 nearly \$51 billion, or approximately 57 percent, of the state
81 budget on contracts and agreements for goods and services, and

82 WHEREAS, during the same fiscal year, the Department of
83 Financial Services reviewed 364 contract and grant agreements,
84 each valued at \$1 million or more, and found that 26 percent had

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85 significant deficiencies in their scope of work, deliverables,
86 or performance standards, and

87 WHEREAS, if this 26 percent error rate applied to the total
88 contractual amount spent during the fiscal year, approximately
89 \$13 billion in taxpayer dollars was obligated to poorly written
90 contracts, and

91 WHEREAS, the state does not have uniform standards for
92 state contracts which incorporate a comprehensive and precise
93 scope of work, clearly defined deliverables, and minimum
94 performance standards that include financial consequences for
95 failing to deliver goods and services, and

96 WHEREAS, the Legislature believes that there is an acute
97 need to initiate reforms that ensure that the state contracting
98 process reflects the highest ethical and fiscal standards; is
99 clear, consistent, and measurable; and is conducted in the most
100 efficient manner possible while delivering goods and services to
101 state residents, and

102 WHEREAS, the Legislature recognizes that the poor
103 management of a good contract could lead to the waste and misuse
104 of tax dollars, and

105 WHEREAS, the Legislature believes that state residents
106 deserve to receive the goods and services for which they are
107 paying, and

108 WHEREAS, the Legislature also believes that this state is a
109 business-friendly state where people doing business with the
110 state provide goods and services in good faith and deserve to
111 know what is expected of them, and

112 WHEREAS, there remains an acute need to provide greater

113 transparency and accountability in public transactions, and
 114 WHEREAS, the Legislature supports additional high-level
 115 training and certification of state contract managers,
 116 especially as it relates to contracts valued at \$325,000 or
 117 more, and

118 WHEREAS, the Legislature believes that a thorough review of
 119 the state's procurement system to evaluate its efficiency and
 120 effectiveness has not been performed for many years, and

121 WHEREAS, the Legislature has determined that the Chief
 122 Financial Officer should conduct an evaluation of the state
 123 procurement process of the executive branch of government, and

124 WHEREAS, the Legislature fully supports promoting the
 125 value, integrity, transparency, accountability of, and the
 126 public confidence in, the state's procurement and contracting
 127 processes, NOW, THEREFORE,

128

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

130

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

133 11.45 Definitions; duties; authorities; reports; rules.—

134 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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

139 215.985 or s. 218.39.

140 (i) Beginning in 2012, the Auditor General shall annually

141 transmit by July 15, to the President of the Senate, the Speaker
 142 of the House of Representatives, and the Department of Financial
 143 Services, a list of all school districts, charter schools,
 144 charter technical career centers, Florida College System
 145 institutions, state universities, and water management districts
 146 that have failed to comply with the transparency requirements of
 147 s. 215.985 as identified in the audit reports reviewed pursuant
 148 to paragraph (b) and those conducted pursuant to subsection (2).

149 Section 2. Section 215.971, Florida Statutes, is amended
 150 to read:

151 215.971 Agreements funded with federal and state
 152 assistance.—

153 (1) For an agency agreement that provides state financial
 154 assistance to a recipient or subrecipient, as those terms are
 155 defined in s. 215.97, or that provides federal financial
 156 assistance to a subrecipient, as defined by applicable United
 157 States Office of Management and Budget circulars, the agreement
 158 must ~~shall~~ include a provision:

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

162 (b) ~~(2)~~ ~~A provision~~ Dividing the agreement into
 163 quantifiable units of deliverables which ~~that~~ must be received
 164 and accepted in writing by the agency before payment. Each
 165 deliverable must be directly related to the scope of work and
 166 ~~must~~ specify a performance measure. As used in this paragraph,
 167 the term "performance measure" means the required minimum level
 168 of service to be performed and the criteria for evaluating the

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169 successful completion of each deliverable.

170 (2) Before execution, agreements to be funded with state
171 or federal financial assistance must be submitted for review and
172 approval in accordance with rules adopted by the Department of
173 Financial Services. The review must ensure that the agreement
174 document contains a clear statement of work, quantifiable and
175 measureable deliverables, performance measures, and financial
176 consequences for nonperformance. An agreement that does not
177 comply with this subsection may be rejected and returned to the
178 submitting agency for revision.

179 (3) For each agreement funded with federal or state
180 assistance, the contracting agency shall designate an employee
181 to function as grant manager who shall be responsible for
182 enforcing performance of the agreement terms and conditions and
183 serve as a liaison with the recipient. A grant manager who is
184 responsible for one or more agreements in excess of the
185 threshold amount provided in s. 287.017 for CATEGORY FIVE must
186 be certified under s. 287.1312. The Chief Financial Officer
187 shall establish and disseminate uniform procedures for payment
188 requests pursuant to s. 17.03(3) to ensure that services are
189 rendered in accordance with the agreement terms before the
190 agency processes an invoice for payment. The procedures must
191 include, but need not be limited to, procedures for monitoring
192 and documenting a recipient's performance, reviewing and
193 documenting all deliverables for which payment is requested by
194 the recipient, and providing written certification by the grant
195 manager of the agency's receipt of goods and services.

196 Section 3. Subsection (16) of section 215.985, Florida

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197 Statutes, is amended to read:

198 215.985 Transparency in government spending.—

199 (16) The Chief Financial Officer shall establish a secure,
 200 shared, intergovernmental contract tracking ~~provide public~~
 201 ~~access to a state contract management system.~~

202 (a) Within 30 calendar days after executing a contract,
 203 each state agency as defined in s. 216.011(1), and, effective
 204 October 1, 2013, each local governmental entity and independent
 205 special district as defined in s. 218.31, each district school
 206 board as described in s. 1001.32, the Board of Governors of the
 207 State University System as described in s. 1001.70, and each
 208 Florida College System institution board of trustees as
 209 described in s. 1001.61 must post the following ~~that provides~~
 210 ~~information and documentation relating to~~ that contract on the
 211 contract tracking system: contracts procured by governmental
 212 ~~entities.~~

- 213 1. The name of the contracting entities;
- 214 2. The procurement method;
- 215 3. The contract beginning and ending dates;
- 216 4. The nature or type of the commodities or services
 217 purchased;
- 218 5. Applicable contract unit prices and deliverables;
- 219 6. Total compensation to be paid or received under the
 220 contract;
- 221 7. All payments made to the contract vendor to date;
- 222 8. All commodities or services received from the contract
 223 vendor to date;
- 224 9. Applicable contract performance measures;

225 10. Contract extensions or renewals, if any;
 226 11. The justification for not using competitive
 227 solicitation to procure the contract, including citation to any
 228 statutory exemption or exception from competitive solicitation,
 229 if applicable;
 230 12. Electronic copies of the contract and procurement
 231 documents, including any provision that may have been redacted
 232 to conceal exempt or confidential information; and
 233 13. Any other information regarding the contract or the
 234 procurement which may be required by the Department of Financial
 235 Services.
 236 ~~(a) The data collected in the system must include, but~~
 237 ~~need not be limited to, the contracting agency; the procurement~~
 238 ~~method; the contract beginning and ending dates; the type of~~
 239 ~~commodity or service; the purpose of the commodity or service;~~
 240 ~~the compensation to be paid; compliance information, such as~~
 241 ~~performance metrics for the service or commodity; contract~~
 242 ~~violations; the number of extensions or renewals; and the~~
 243 ~~statutory authority for providing the service.~~
 244 (b) Within 30 calendar days after a major modification or
 245 amendment ~~change~~ to an existing contract, ~~or the execution of a~~
 246 ~~new contract, agency procurement staff of the affected state~~
 247 ~~governmental~~ entity must ~~shall~~ update the necessary information
 248 described in paragraph (a) in the state contract tracking
 249 management system. A major modification or amendment ~~change~~ to a
 250 contract includes, but is not limited to, a renewal,
 251 termination, or extension of the contract, or an amendment to
 252 the contract as determined by the Chief Financial Officer.

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253 (c) Each entity identified in paragraph (a) must redact,
254 as defined in s. 119.011, any exempt or confidential
255 information, including trade secrets as defined in s. 688.002 or
256 s. 812.081, from the contract or procurement documents before
257 posting an electronic copy of such documents on the contract
258 tracking system.

259 1. If an entity becomes aware that an electronic copy of a
260 contract or procurement document that it posted has not been
261 properly redacted, the entity must replace the electronic copy
262 of the documents with a redacted copy.

263 2. If a party to a contract, or an authorized
264 representative thereof, discovers that an electronic copy of a
265 contract or procurement document on the system has not been
266 properly redacted, the party or representative may request the
267 entity that posted the document to redact the exempt or
268 confidential information. Upon receipt of a request in
269 compliance with this subparagraph, the entity that posted the
270 document shall redact the exempt or confidential information.

271 a. Such request must be in writing and delivered by mail,
272 facsimile, or electronic transmission, or in person to the
273 entity that posted the information. The request must identify
274 the specific document, the page numbers that include the exempt
275 or confidential information, the information that is exempt or
276 confidential, and the relevant statutory exemption. A fee may
277 not be charged for a redaction made pursuant to such request.

278 b. If necessary, a party to the contract may petition the
279 circuit court for an order directing compliance with this
280 paragraph.

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281 3. The Chief Financial Officer, the Department of
282 Financial Services, or any officer, employee, or contractor
283 thereof, is not responsible for redacting exempt or confidential
284 information from an electronic copy of a contract or procurement
285 document posted by another entity on the system, and is not
286 liable for the failure of the entity to redact the exempt or
287 confidential information. The Department of Financial Services
288 may notify the posting entity if it discovers that a document
289 posted on the tracking system contains exempt or confidential
290 information.

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

297 1. The Chief Financial Officer may regulate and prohibit
298 the posting of records that could facilitate identity theft or
299 fraud, such as signatures; compromise or reveal an agency
300 investigation; reveal the identity of undercover personnel;
301 reveal proprietary confidential business information or trade
302 secrets; reveal an individual's medical information; or reveal
303 any other record or information that the Chief Financial Officer
304 believes may jeopardize the health, safety, or welfare of the
305 public. However, such prohibition does not eliminate the duty of
306 an entity to provide a copy of a public record upon request. The
307 Chief Financial Officer shall use appropriate Internet security
308 measures to ensure that no person has the ability to alter or

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309 modify records available on the website.

310 2. Records made available on the website, including
311 electronic copies of contracts or procurement documents, may not
312 reveal information made exempt or confidential by law. Notice of
313 the right of an affected party to request redaction of exempt or
314 confidential information pursuant to paragraph (c) must be
315 conspicuously and clearly displayed on the website. This
316 includes, but is not limited to:

317 a. Criminal intelligence or criminal investigative
318 information as defined in s. 119.011;

319 b. Surveillance techniques or procedures or personnel;

320 c. The identity of a confidential informant or
321 confidential source;

322 d. The identify of undercover personnel of a criminal
323 justice agency;

324 e. A security system plan; or

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

326 (e) The posting of information on the contract tracking
327 system or the provision of contract information on a website for
328 public viewing and downloading does not eliminate the duty of an
329 entity to respond to a public record request for such
330 information or to a subpoena for such information.

331 1. A request for a copy of a contract or procurement
332 document or a certified copy of a contract or procurement
333 document shall be made to the entity that is party to the
334 contract and that maintains the original documents. Such request
335 may not be made to the Chief Financial Officer or the Department
336 of Financial Services or any officer, employee, or contractor

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337 thereof unless the Chief Financial Officer or the department is
338 a party to the contract.

339 2. A subpoena for a copy of a contract or procurement
340 document or certified copy of a contract or procurement document
341 must be served on the entity that is a party to the contract and
342 that maintains the original documents. The Chief Financial
343 Officer or the Department of Financial Services or any officer,
344 employee, or contractor thereof may not be served a subpoena for
345 those records unless the Chief Financial Officer or the
346 department is a party to the contract.

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

349 Section 4. Section 216.0111, Florida Statutes, is
350 repealed.

351 Section 5. Section 287.032, Florida Statutes, is amended
352 to read:

353 287.032 Departmental responsibility ~~purpose of~~
354 ~~department.~~ Pursuant to the administration of this chapter:

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

357 (a) (1) To Promote efficiency, economy, and the
358 conservation of energy and ~~coordinate to effect coordination in~~
359 the purchase of commodities and contractual services for the
360 state.

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

364 (b) (3) To Procure and distribute federal surplus tangible

365 personal property allocated to the state by the Federal
 366 Government.

367 (2) The responsibility of the Department of Financial
 368 Services is to:

369 (a) Provide uniform commodity and contractual service
 370 procurement policies, rules, procedures, and forms for use by
 371 agencies and eligible users.

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

374 Section 6. Section 287.042, Florida Statutes, is amended
 375 to read:

376 287.042 Powers, duties, and functions of the Department of
 377 Management Services.—The department is responsible for the
 378 procurement of commodities and contractual services for agencies
 379 and has ~~shall have~~ the following powers, duties, and functions:

380 (1) ~~(a)~~ To canvass all sources of supply, establish and
 381 maintain a vendor list, and contract for the purchase, lease, or
 382 acquisition, including purchase by installment sales or lease-
 383 purchase contracts which may provide for the payment of interest
 384 on unpaid portions of the purchase price, of all commodities and
 385 contractual services required by an ~~any~~ agency under this
 386 chapter. A ~~Any~~ contract providing for deferred payments and the
 387 payment of interest is ~~shall be~~ subject to specific rules
 388 adopted by the Department of Financial Services.

389 ~~(a)~~ (b) The department shall develop a list of interested
 390 vendors to be maintained by classes of commodities and
 391 contractual services. The list may not be used to prequalify a
 392 vendor or to exclude an interested vendor from bidding. However,

393 a vendor barred by the Chief Financial Officer pursuant to s.
 394 287.044(7) may not be included on the list. The department may
 395 remove from the ~~its~~ vendor list any source of supply which fails
 396 to fulfill any of its duties specified in a contract with the
 397 state. The department ~~It~~ may reinstate ~~any~~ such source of supply
 398 if the department ~~when it~~ is satisfied that further instances of
 399 default will not occur.

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

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

407 (c) ~~(e)~~ The department shall include the products offered
 408 by the corporation operating the correctional industry program
 409 on any listing prepared by the department which lists state term
 410 contracts executed by the department. The products or services
 411 shall be placed on such list in a category based upon
 412 specification criteria developed through a joint effort of the
 413 department and the corporation and approved by the department.

414 1. ~~(f)~~ The corporation may submit products and services to
 415 the department for testing, analysis, and review relating to the
 416 quality and cost comparability. If, after review and testing,
 417 the department approves ~~of~~ the products and services, the
 418 department shall give written notice ~~thereof~~ to the corporation.
 419 The corporation shall pay a reasonable fee ~~charged~~ for the
 420 testing of its products by the Department of Agriculture and

421 Consumer Services.

422 2. The department shall issue a commodity number for all
 423 products of the corporation which meet or exceed department
 424 specifications.

425 (d)~~(g)~~ The department shall include products and services
 426 that are offered by a qualified nonprofit agency for the blind
 427 or for the other severely handicapped ~~organized pursuant to~~
 428 ~~chapter 413~~ and that have been determined to be suitable for
 429 purchase pursuant to s. 413.035 on a ~~any~~ department listing of
 430 state term contracts. The products and services shall be placed
 431 on such list in a category based upon specification criteria
 432 developed by the department in consultation with the ~~qualified~~
 433 nonprofit agency.

434 (e)~~(h)~~ The department may collect fees for the use of its
 435 electronic information services. The fees may be imposed on an
 436 individual transaction basis or as a fixed subscription for a
 437 designated period of time. At a minimum, the fees shall be
 438 determined in an amount sufficient to cover the department's
 439 projected costs for ~~of~~ the services, including overhead, in
 440 accordance with the policies of the department ~~of Management~~
 441 ~~Services~~ for computing its administrative assessment. All fees
 442 collected under this paragraph shall be deposited in the
 443 Operating Trust Fund for disbursement as provided by law.

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

448 (a) The department may restrict purchases by ~~from some~~

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449 ~~term contracts to~~ state agencies from ~~only for these~~ term
450 contracts if ~~where~~ the inclusion of other governmental entities
451 will have an adverse effect on competition or on ~~to these~~
452 federal facilities located in this state. In such planning or
453 purchasing, the office ~~of Supplier Diversity~~ may monitor to
454 ensure that opportunities are afforded for contracting with
455 minority business enterprises. The department, for state term
456 contracts, and all agencies, for multiyear contractual services
457 or term contracts, shall explore reasonable and economical means
458 to use ~~utilize~~ certified minority business enterprises.
459 Purchases by any county, municipality, private nonprofit
460 community transportation coordinator designated pursuant to
461 chapter 427, ~~while~~ conducting business related solely to the
462 Commission for the Transportation Disadvantaged, or other local
463 public agency under the provisions in the state purchasing
464 contracts, and purchases, from the corporation operating the
465 correctional work programs, of products or services that are
466 subject to paragraph (1)(c) ~~(1)(f)~~, are exempt from the
467 competitive solicitation requirements otherwise applying to
468 their purchases.

469 (b) As an alternative to ~~any provision in~~ s. 120.57(3)(c),
470 the department may proceed with the competitive solicitation or
471 contract award process of a term contract if ~~when~~ the secretary
472 of the department or his or her designee sets forth in writing
473 particular facts and circumstances that ~~which~~ demonstrate that
474 the delay incident to staying the solicitation or contract award
475 process would be detrimental to the interests of the state. If,
476 after the award of the ~~a~~ contract resulting from a competitive

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477 solicitation in which a timely protest was received and in which
478 the state did not prevail, the contract may be canceled and
479 reawarded.

480 (c) Any person who files an action protesting a decision
481 or intended decision pertaining to contracts administered by the
482 department, a water management district, or an agency pursuant
483 to s. 120.57(3)(b) shall, at the same time, also post a bond
484 equal to 1 percent of the estimated contract amount with, and
485 payable to, the department, the water management district, or
486 the agency, as applicable ~~at the time of filing the formal~~
487 ~~written protest a bond payable to the department, the water~~
488 ~~management district, or agency in an amount equal to 1 percent~~
489 ~~of the estimated contract amount.~~ For protests of decisions or
490 intended decisions pertaining to exceptional purchases, the bond
491 must ~~shall be in an amount~~ equal ~~to~~ 1 percent of the estimated
492 contract amount for the exceptional purchase.

493 1. The estimated contract amount shall be based upon the
494 contract price submitted by the protestor or, if no contract
495 price was submitted, the department, water management district,
496 or agency shall estimate the contract amount based on factors,
497 including, but not limited to, the price of previous or existing
498 contracts for similar commodities or contractual services, the
499 amount appropriated by the Legislature for the contract, or the
500 fair market value of similar commodities or contractual
501 services. The agency shall provide the estimated contract amount
502 to the vendor within 72 hours, excluding Saturdays, Sundays, and
503 state holidays, after the filing of the notice of protest by the
504 vendor. The estimated contract amount is not subject to protest

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505 pursuant to s. 120.57(3).

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

510 3. In lieu of a bond, the department, ~~the~~ water management
511 district, or agency may, ~~in either case,~~ accept a cashier's
512 check, official bank check, or money order in the amount of the
513 bond.

514 4. If, after completion of the administrative hearing
515 process and any appellate court proceedings, the department,
516 water management district, or agency prevails, it shall recover
517 all costs and charges, which must ~~shall~~ be included in the final
518 order or judgment, excluding attorney ~~attorney's~~ fees. ~~This~~
519 ~~section shall not apply to protests filed by the Office of~~
520 ~~Supplier Diversity.~~ Upon payment of such costs and charges by
521 the protestor, the bond, cashier's check, official bank check,
522 or money order shall be returned to the protestor. If, after the
523 completion of the administrative hearing process and any
524 appellate court proceedings, the protestor prevails, the
525 protestor may ~~shall~~ recover from the department, water
526 management district, or agency all costs and charges that are
527 ~~which shall be~~ included in the final order or judgment,
528 excluding attorney ~~attorney's~~ fees.

529 5. This paragraph does not apply to protests filed by the
530 office.

531 ~~(3) To establish a system of coordinated, uniform~~
532 ~~procurement policies, procedures, and practices to be used by~~

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533 ~~agencies in acquiring commodities and contractual services,~~
534 ~~which shall include, but not be limited to:~~

535 ~~(a) Development of a list of interested vendors to be~~
536 ~~maintained by classes of commodities and contractual services.~~
537 ~~This list shall not be used to prequalify vendors or to exclude~~
538 ~~any interested vendor from bidding.~~

539 ~~(b)1. Development of procedures for advertising~~
540 ~~solicitations. These procedures must provide for electronic~~
541 ~~posting of solicitations for at least 10 days before the date~~
542 ~~set for receipt of bids, proposals, or replies, unless the~~
543 ~~department or other agency determines in writing that a shorter~~
544 ~~period of time is necessary to avoid harming the interests of~~
545 ~~the state. The Office of Supplier Diversity may consult with the~~
546 ~~department regarding the development of solicitation~~
547 ~~distribution procedures to ensure that maximum distribution is~~
548 ~~afforded to certified minority business enterprises as defined~~
549 ~~in s. 288.703.~~

550 ~~2. Development of procedures for electronic posting. The~~
551 ~~department shall designate a centralized website on the Internet~~
552 ~~for the department and other agencies to electronically post~~
553 ~~solicitations, decisions or intended decisions, and other~~
554 ~~matters relating to procurement.~~

555 ~~(c) Development of procedures for the receipt and opening~~
556 ~~of bids, proposals, or replies by an agency. Such procedures~~
557 ~~shall provide the Office of Supplier Diversity an opportunity to~~
558 ~~monitor and ensure that the contract award is consistent with~~
559 ~~the requirements of s. 287.09451.~~

560 ~~(d) Development of procedures to be used by an agency in~~

561 ~~deciding to contract, including, but not limited to, identifying~~
 562 ~~and assessing in writing project needs and requirements,~~
 563 ~~availability of agency employees, budgetary constraints or~~
 564 ~~availability, facility equipment availability, current and~~
 565 ~~projected agency workload capabilities, and the ability of any~~
 566 ~~other state agency to perform the services.~~

567 ~~(e) Development of procedures to be used by an agency in~~
 568 ~~maintaining a contract file for each contract which shall~~
 569 ~~include, but not be limited to, all pertinent information~~
 570 ~~relating to the contract during the preparatory stages; a copy~~
 571 ~~of the solicitation; documentation relating to the solicitation~~
 572 ~~process; opening of bids, proposals, or replies; evaluation and~~
 573 ~~tabulation of bids, proposals, or replies; and determination and~~
 574 ~~notice of award of contract.~~

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

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

581 ~~(h) Development of procedures to be used by state agencies~~
 582 ~~when procuring information technology commodities and~~
 583 ~~contractual services that ensure compliance with public records~~
 584 ~~requirements and records retention and archiving requirements.~~

585 ~~(4) (a) To prescribe the methods of securing competitive~~
 586 ~~sealed bids, proposals, and replies. Such methods may include,~~
 587 ~~but are not limited to, procedures for identifying vendors;~~
 588 ~~setting qualifications; conducting conferences or written~~

589 ~~question and answer periods for purposes of responding to vendor~~
590 ~~questions; evaluating bids, proposals, and replies; ranking and~~
591 ~~selecting vendors; and conducting negotiations.~~

592 ~~(b) To prescribe procedures for procuring information~~
593 ~~technology and information technology consultant services that~~
594 ~~provide for public announcement and qualification, competitive~~
595 ~~solicitations, contract award, and prohibition against~~
596 ~~contingent fees. Such procedures are limited to information~~
597 ~~technology consultant contracts for which the total project~~
598 ~~costs, or planning or study activities, are estimated to exceed~~
599 ~~the threshold amount provided in s. 287.017, for CATEGORY TWO.~~

600 ~~(3)(5) To prescribe specific commodities and quantities to~~
601 ~~be purchased locally.~~

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

605 ~~(4)(b) Except for the purchase of insurance, to the~~
606 ~~department may delegate to agencies the authority for the~~
607 ~~procurement of and contracting for commodities or contractual~~
608 ~~services.~~

609 ~~(7) To establish definitions and classes of commodities~~
610 ~~and contractual services. Agencies shall follow the definitions~~
611 ~~and classes of commodities and contractual services established~~
612 ~~by the department in acquiring or purchasing commodities or~~
613 ~~contractual services. The authority of the department under this~~
614 ~~section shall not be construed to impair or interfere with the~~
615 ~~determination by state agencies of their need for, or their use~~
616 ~~of, services including particular specifications.~~

617 ~~(8) To provide any commodity and contractual service~~
 618 ~~purchasing rules to the Chief Financial Officer and all agencies~~
 619 ~~through an electronic medium or other means. Agencies may not~~
 620 ~~approve any account or request any payment of any account for~~
 621 ~~the purchase of any commodity or the procurement of any~~
 622 ~~contractual service covered by a purchasing or contractual~~
 623 ~~service rule except as authorized therein. The department shall~~
 624 ~~furnish copies of rules adopted by the department to any county,~~
 625 ~~municipality, or other local public agency requesting them.~~

626 (5)~~(9)~~ To require that every agency furnish information
 627 relative to its commodity and contractual services purchases and
 628 methods of purchasing commodities and contractual services to
 629 the department when so requested.

630 (6)~~(10)~~ To prepare statistical data concerning the method
 631 of procurement, terms, usage, and disposition of commodities and
 632 contractual services by agencies. All agencies shall furnish
 633 such information for this purpose to the office and to the
 634 department, as the department or office may call for, but at
 635 least ~~no less frequently than~~ annually, on such forms or in such
 636 manner as the department may prescribe.

637 ~~(11) To establish and maintain programs for the purpose of~~
 638 ~~disseminating information to government, industry, educational~~
 639 ~~institutions, and the general public concerning policies,~~
 640 ~~procedures, rules, and forms for the procurement of commodities~~
 641 ~~and contractual services.~~

642 (7)~~(12)~~ Except as otherwise provided in this section
 643 herein, to adopt rules necessary to carry out the purposes of
 644 this section, including the authority to delegate to any agency

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645 any and all of the responsibility conferred by this section,
646 retaining to the department any and all authority for
647 supervision thereof. Such purchasing of commodities and
648 procurement of contractual services by state agencies must also
649 ~~shall~~ be in strict accordance with the rules and procedures
650 prescribed by the Department of Financial Services.

651 (8) ~~(13)~~ If the department determines in writing that it is
652 in the best interest of the state, to award to multiple
653 suppliers contracts for commodities and contractual services
654 established by the department for use by all agencies. Such
655 awards may be on a statewide or regional basis. If regional
656 contracts are established by the department, multiple supplier
657 awards may be based upon multiple awards for regions. Agencies
658 may award contracts to a responsible and responsive vendor on a
659 statewide or regional basis.

660 (9) ~~(14)~~ To procure and distribute federal surplus tangible
661 personal property allocated to the state by the Federal
662 Government.

663 (10) ~~(15)~~ To enter into joint agreements with governmental
664 agencies, as defined in s. 163.3164, for the purpose of pooling
665 funds for the purchase of commodities or information technology
666 that can be used by multiple agencies.

667 (a) Each agency that has been appropriated or has existing
668 funds for such purchase, shall, upon contract award by the
669 department, transfer their portion of the funds into the
670 department's Operating Trust Fund for payment by the department.
671 The funds shall be transferred by the Executive Office of the
672 Governor pursuant to the agency budget amendment request

673 provisions in chapter 216.

674 (b) Agencies that sign the joint agreements are
 675 financially obligated for their portion of the agreed-upon
 676 funds. If an agency becomes more than 90 days delinquent in
 677 paying the funds, the department shall certify to the Chief
 678 Financial Officer the amount due, and the Chief Financial
 679 Officer shall transfer the amount due to the Operating Trust
 680 Fund of the department from any of the agency's available funds.
 681 The Chief Financial Officer shall report these transfers and the
 682 reasons for the transfers to the Executive Office of the
 683 Governor and the legislative appropriations committees.

684 (11)~~(16)~~ To evaluate contracts let by the Federal
 685 Government, another state, or a political subdivision for the
 686 provision of commodities and contract services, and, if it is
 687 determined in writing to be cost-effective and in the best
 688 interest of the state, to enter into a written agreement
 689 authorizing an agency to make purchases under such contract.

690 (12)~~(17)~~ ~~(a)~~ To enter into contracts pursuant to chapter
 691 957 for the designing, financing, acquiring, leasing,
 692 constructing, or operating of private correctional facilities.
 693 The department shall enter into such ~~a contract or~~ contracts
 694 with one contractor per facility ~~for the designing, acquiring,~~
 695 ~~financing, leasing, constructing, and operating of that facility~~
 696 or may, if specifically authorized by the Legislature,
 697 separately contract for each of ~~any~~ such services.

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

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701 (b) The department may not delegate the responsibilities
702 conferred by this subsection.

703 Section 7. Section 287.044, Florida Statutes, is created
704 to read:

705 287.044 Powers, duties, and functions of the Department of
706 Financial Services.—The Department of Financial Services is
707 responsible for establishing and enforcing procurement and
708 contracting policies and procedures for the Department of
709 Management Services and all agencies. The Department of
710 Financial Services has the following powers, duties, and
711 functions:

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

716 (a) The development of procedures to be used by an agency
717 for issuing or advertising solicitations which include
718 requirements for the agency to describe commodities, services,
719 scope of work, and deliverables in a manner that promotes
720 competition.

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

726 2. The office may consult with the department regarding
727 the development of solicitation distribution procedures to
728 ensure that maximum distribution is afforded to certified

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729 minority business enterprises as defined in s. 288.703.

730 3. The department shall designate a centralized website on
731 the Internet for the department and other agencies to
732 electronically post solicitations, decisions or intended
733 decisions, and other matters relating to procurement.

734 4. State agencies shall be prepared to provide an
735 explanation to unsuccessful bidders, if requested, of the
736 reasons for which the bidders did not win a bid, in order to
737 improve the bidders' chances for future success and encourage
738 greater competition in the marketplace.

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

741 (c) The development of procedures to be used by state
742 agencies when procuring information technology commodities and
743 contractual services which ensure compliance with public records
744 requirements and records retention and archiving requirements.

745 (d) The development of procedures for the receipt and
746 opening of bids, proposals, or replies by an agency. Such
747 procedures must provide the office an opportunity to monitor and
748 to ensure that the contract award is consistent with the
749 requirements of s. 287.09451.

750 (e) The development of procedures to be used by an agency
751 in deciding to contract, including, but not limited to,
752 identifying and assessing in writing project needs and
753 requirements, availability of agency employees, budgetary
754 availability or constraints, availability of facility equipment,
755 current and projected agency workload capabilities, and the
756 ability of another state agency to perform the services.

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757 (f) The development of a methodology to calculate cost
758 savings or cost avoidance achieved under a contract. Each agency
759 must annually report any action taken and the amount of cost
760 savings or cost avoidance which resulted from using the
761 methodology developed by the department. At a minimum, the
762 methodology should address:

- 763 1. The assessment of financial consequences for
764 nonperformance.
- 765 2. Criteria for renegotiating the contract.
- 766 3. Refinement of the scope of work or deliverables.
- 767 4. The use of additional competition during the
768 procurement process which results in awarding the contract at a
769 lower price than the previous award.

770 (g) The development of procedures for recording and
771 maintaining support documentation for a cost or price analysis
772 to be performed before the award of a contract in excess of the
773 threshold amount provided in s. 287.017 for CATEGORY FOUR. The
774 cost or price analysis shall be used to validate the
775 reasonableness of bids, proposals, or replies.

776 (h) The development of procedures to be used by state
777 agencies when entering into contracts which ensure standard
778 formats, quantifiable and measurable deliverables, performance
779 measures, and financial consequences for nonperformance.

780 (i) The development of procedures to be used by an agency
781 in maintaining a contract file for each contract which includes,
782 but is not limited to, all pertinent information relating to the
783 contract during the preparatory stages; the solicitation
784 process, including a copy of the solicitation; the opening of

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785 bids, proposals, or replies; the evaluation and tabulation of
786 bids, proposals, or replies; and the determination and notice of
787 contract award.

788 (2) To prescribe the methods of securing competitive
789 sealed bids, proposals, and replies. Such methods may include,
790 but are not limited to, procedures for identifying vendors;
791 setting qualifications; conducting conferences or written
792 question and answer periods for purposes of responding to vendor
793 questions; evaluating bids, proposals, and replies; ranking and
794 selecting vendors; and conducting negotiations.

795 (3) To prescribe procedures for procuring information
796 technology and information technology consultant services which
797 provide for public announcement and qualification, competitive
798 solicitations, the contract award, and a prohibition against
799 contingent fees. Such procedures are limited to information
800 technology consultant contracts for which the total project
801 costs, or planning or study activities, are estimated to exceed
802 the threshold amount provided in s. 287.017 for CATEGORY TWO.

803 (4) To govern the purchase by an agency of any commodity
804 or contractual service and to establish standards and
805 specifications for a commodity. The Chief Financial Officer
806 shall establish definitions and classes of commodities and
807 contractual services which agencies must adhere to in acquiring
808 or purchasing commodities or contractual services. The
809 department's authority under this section may not impair or
810 interfere with an agency's determination of its need for, or use
811 of, services that include particular specifications.

812 (5) To provide to agencies through an electronic medium or

813 other means rules for purchasing commodities and contractual
 814 services. Agencies may not approve any account, or request
 815 payment of any account, for the purchase of any commodity or the
 816 procurement of any contractual service covered by a purchasing
 817 or contractual service rule except as authorized by such rule.
 818 The department shall furnish copies of rules adopted by the
 819 department to any county, municipality, or other local public
 820 agency requesting them.

821 (6) To establish and maintain programs that disseminate
 822 information to governmental entities, industry vendors,
 823 educational institutions, and the general public concerning
 824 policies, procedures, rules, and forms for the procurement of
 825 commodities and contractual services.

826 (7) To establish and maintain a list of vendors that are
 827 not allowed to do business with the state pursuant to ss.
 828 287.132 (4) and 287.133. The department may add to the list
 829 vendors that are not compliant with federal or state laws, or
 830 that the department determines have uncollected accounts that
 831 are owed to the state.

832 (8) To review and approve contracts subject to this
 833 chapter before the execution of such contracts in accordance
 834 with rules adopted by the department. The review must ensure
 835 that all contracting laws have been met; that the contract
 836 document contains a clear statement of work, quantifiable and
 837 measureable deliverables, performance measures, financial
 838 consequences for nonperformance, and clear terms and conditions
 839 that protect the interests of the state; that documentation is
 840 available to support the contract; and that the associated costs

841 of the contract are not unreasonable or inappropriate. A
 842 contract that does not comply with this subsection may be
 843 rejected and returned to the submitting agency for revision.

844 (a) For contracts in excess of the threshold amount
 845 provided in s. 287.017 for CATEGORY THREE, the review must
 846 include, but need not be limited to:

847 1. Evidence of advertising the procurement opportunity, if
 848 applicable;

849 2. The bid, proposal, or reply itself, whether an
 850 invitation to bid, request for proposals, or invitation to
 851 negotiate, as applicable;

852 3. The preprocurement conference questions and answers;

853 4. Any additional documentation provided to bidders,
 854 proposers, or repliers;

855 5. The list of bidders, proposers, or repliers solicited;

856 6. The evaluation instrument and process description
 857 related to the contract;

858 7. The bid tabulation or evaluation record;

859 8. Documentation that supports the agency's determination
 860 of vendor responsibility;

861 9. The successful bid, proposal, or reply in addition to
 862 the unsuccessful bids, proposals, or replies;

863 10. Documentation that supports the selection of the
 864 contractor;

865 11. The reasonableness of the price;

866 12. Verification that all statutory and regulatory
 867 requirements have been met; and

868 13. The proposed contract.

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869 (b) The department shall verify that a competitive process
870 was used if required by law and that the contract was
871 appropriately awarded on the basis of lowest price or best value
872 to a responsive and reasonable bidder, proposer, or replier. For
873 contracts not competitively awarded, the procurement record
874 shall be reviewed for restrictive specifications and the
875 agency's justification for the noncompetitive method used in
876 awarding the contract, including justification for the selection
877 of the vendor and the reasonableness of the terms.

878 (c) The department has 90 days to make a final
879 determination regarding approval of a contract. The department
880 and the agency entering into the contract may agree to a longer
881 review period to ensure the thorough consideration of the
882 procurement process and its results.

883 (d) In order to ensure that the parties to the contract
884 are aware that a contract is not effective unless approved by
885 the department, the following language must be included in each
886 state contract or amendment to such contract:

887
888 If this contract, or an amendment to a contract, is
889 valued at or greater than \$65,000 or if the state
890 agrees to give something other than money, which
891 consideration has a value or reasonably estimated
892 value at or greater than \$35,000, the contract or
893 amendment is not valid, effective, or binding upon the
894 state unless the contract or amendment has been
895 approved by the Chief Financial Officer.
896

897 (e) Contracts and grants or grants-type contracts must be
 898 treated similarly. Therefore, if a for-profit entity joins the
 899 competition for a grant, normal contract rules apply even though
 900 they may not be appropriate for a grant procurement.

901 (9) To waive minor deviations from current procedures in
 902 order to prevent a delay in awarding an otherwise favorable
 903 contract if a vendor is not adversely affected and current law
 904 is not violated. The Chief Financial Officer shall provide
 905 recommendations to the Legislature to resolve such deviations,
 906 where appropriate, at the next regular legislative session.

907 (10) To have flexibility in accomplishing the intent of
 908 this section. If situations arise that current law does not
 909 anticipate, the department may work with state agencies to use
 910 different contracting methods on a pilot basis for the remainder
 911 of the calendar year. The Chief Financial Officer must provide
 912 recommendations to the Legislature to resolve such situations,
 913 where appropriate, at the next regular legislative session.

914 Section 8. Paragraph (f) of subsection (3), subsection
 915 (9), and subsection (14) of section 287.057, Florida Statutes,
 916 are amended, and subsection (24) is added to that section, to
 917 read:

918 287.057 Procurement of commodities or contractual
 919 services.—

920 (3) When the purchase price of commodities or contractual
 921 services exceeds the threshold amount provided in s. 287.017 for
 922 CATEGORY TWO, no purchase of commodities or contractual services
 923 may be made without receiving competitive sealed bids,
 924 competitive sealed proposals, or competitive sealed replies

925 unless:

926 (f) The following contractual services and commodities are
 927 not subject to the competitive-solicitation requirements of this
 928 section:

929 ~~1. Artistic services. For the purposes of this subsection,~~
 930 ~~the term "artistic services" does not include advertising or~~
 931 ~~typesetting. As used in this subparagraph, the term~~
 932 ~~"advertising" means the making of a representation in any form~~
 933 ~~in connection with a trade, business, craft, or profession in~~
 934 ~~order to promote the supply of commodities or services by the~~
 935 ~~person promoting the commodities or contractual services.~~

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

938 ~~3. Lectures by individuals.~~

939 1.4. Legal services, including attorney, paralegal, expert
 940 witness, appraisal, or mediator services.

941 2.5.a. Health services involving examination, diagnosis,
 942 treatment, prevention, medical consultation, or administration,
 943 and,

944 ~~b.~~ beginning January 1, 2011, health services, including,
 945 but not limited to, substance abuse and mental health services,
 946 involving examination, diagnosis, treatment, prevention, or
 947 medical consultation, if ~~when~~ such services are offered to
 948 eligible individuals participating in a specific program that
 949 qualifies multiple providers and uses a standard payment
 950 methodology. Reimbursement of administrative costs for providers
 951 of services purchased in this manner are ~~shall~~ also ~~be~~ exempt.
 952 For purposes of this subparagraph ~~sub-subparagraph~~, the term

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953 "providers" means health professionals, health facilities, or
954 organizations that deliver or arrange for the delivery of health
955 services.

956 ~~3.6.~~ Services provided to persons with mental or physical
957 disabilities by not-for-profit corporations that ~~which~~ have
958 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the
959 United States Internal Revenue Code or if ~~when~~ such services are
960 governed by the provisions of Office of Management and Budget
961 Circular A-122. However, in acquiring such services, the agency
962 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
963 performance, willingness to meet time requirements, and price.

964 ~~4.7.~~ Medicaid services delivered to an eligible Medicaid
965 recipient, unless the agency is directed otherwise in law.

966 ~~5.8.~~ Family placement services.

967 ~~6.9.~~ Prevention services related to mental health,
968 including drug abuse prevention programs, child abuse prevention
969 programs, and shelters for runaways, operated by not-for-profit
970 corporations. However, in acquiring such services, the agency
971 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
972 performance, willingness to meet time requirements, and price.

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

975 ~~7.11.~~ Contracts entered into pursuant to s. 337.11.

976 ~~8.12.~~ Services or commodities provided by governmental
977 agencies.

978 (9) An agency may ~~shall~~ not divide the solicitation of
979 commodities or contractual services so as to avoid the
980 requirements of subsections (1)-(3) and reduce the ability of

981 businesses to openly compete. For the purposes of this
 982 subsection, state agencies shall consider all purchases of the
 983 same commodity or service during one year to be part of a single
 984 purchase.

985 (14) For each contractual services contract, the agency
 986 shall designate an employee to function as contract manager who
 987 shall be responsible for enforcing performance of the contract
 988 terms and conditions and serve as a liaison with the contractor.
 989 Each contract manager who is responsible for one or more
 990 contracts in excess of the threshold amount provided under s.
 991 287.017 for CATEGORY FIVE ~~TWO~~ must be certified pursuant to s.
 992 287.1312 attend training conducted by the Chief Financial
 993 Officer for accountability in contracts and grant management.
 994 The Chief Financial Officer shall establish and disseminate
 995 uniform procedures pursuant to s. 17.03(3) to ensure that
 996 contractual services have been rendered in accordance with the
 997 contract terms before the agency processes the invoice for
 998 payment. The procedures must ~~shall~~ include, but need not be
 999 limited to, procedures for monitoring and documenting contractor
 1000 performance, reviewing and documenting all deliverables for
 1001 which payment is requested by vendors, and providing written
 1002 certification by contract managers of the agency's receipt of
 1003 goods and services.

1004 (24) An agency may purchase commodities or services
 1005 through another agency's existing contract rather than through
 1006 competitive competition if the use of such contract is in the
 1007 best interest of the state.

1008 Section 9. Paragraph (e) of subsection (1) of section

1009 287.058, Florida Statutes, is amended to read:

1010 287.058 Contract document.—

1011 (1) Every procurement of contractual services in excess of
 1012 the threshold amount provided in s. 287.017 for CATEGORY TWO,
 1013 except for the providing of health and mental health services or
 1014 drugs in the examination, diagnosis, or treatment of sick or
 1015 injured state employees or the providing of other benefits as
 1016 required by the provisions of chapter 440, shall be evidenced by
 1017 a written agreement embodying all provisions and conditions of
 1018 the procurement of such services, which shall, where applicable,
 1019 include, but not be limited to, a provision:

1020 (e) Dividing the contract into quantifiable, measurable,
 1021 and verifiable units of deliverables which ~~that~~ must be received
 1022 and accepted in writing by the contract manager before payment.
 1023 Each deliverable must be directly related to the scope of work
 1024 and specify a performance measure. As used in this paragraph,
 1025 the term "performance measure" means the required minimum level
 1026 of service to be performed and criteria for evaluating the
 1027 successful completion of each deliverable.

1028
 1029 In lieu of a written agreement, the department may authorize the
 1030 use of a purchase order for classes of contractual services, if
 1031 the provisions of paragraphs (a)-(i) are included in the
 1032 purchase order or solicitation. The purchase order must include,
 1033 but need not be limited to, an adequate description of the
 1034 services, the contract period, and the method of payment. In
 1035 lieu of printing the provisions of paragraphs (a)-(i) in the
 1036 contract document or purchase order, agencies may incorporate

1037 the requirements of paragraphs (a)-(i) by reference.

1038 Section 10. Section 287.1312, Florida Statutes, is created
 1039 to read:

1040 287.1312 Contract manager certification.-

1041 (1) The Department of Financial Services shall establish a
 1042 certification program for contract and grant managers. A state
 1043 employee may not manage a contract or grant agreement in excess
 1044 of the threshold amount provided in s. 287.017 for CATEGORY FIVE
 1045 without obtaining a valid certification from the Department of
 1046 Financial Services under this section. The program must include
 1047 training in the following areas:

1048 (a) Procurement and the development of contracts.

1049 (b) Development and administration of grant agreements
 1050 involving federal and state financial assistance.

1051 (c) Responsibilities of a contract manager in the
 1052 management of state contracts and grant agreements.

1053 (d) Federal and state audit and reporting requirements.

1054 (e) Laws and rules relating to procurement and contract
 1055 administration.

1056 (f) Any other subject matter that the Chief Financial
 1057 Officer determines will promote accountability in contract and
 1058 grant management.

1059 (2) The program shall provide for periodic
 1060 recertification, as necessary. The Department of Financial
 1061 Services shall determine course requirements, maintain
 1062 information on certifications, and monitor the performance of
 1063 contract and grant managers. As part of such monitoring, the
 1064 department shall annually publish the results of agency manager

1065 audits and error rates related to contract and grant management
 1066 on its website.

1067 (3) The Department of Financial Services may revoke a
 1068 manager's certification for incompetence or conduct inconsistent
 1069 with the responsibilities of contract or grant management.

1070 (4) The Department of Financial Services shall adopt rules
 1071 to administer this section.

1072 Section 11. Paragraph (d) of subsection (1) of section
 1073 287.133, Florida Statutes, is amended to read:

1074 287.133 Public entity crime; denial or revocation of the
 1075 right to transact business with public entities.—

1076 (1) As used in this section:

1077 (d) "Department" means the Department of Financial
 1078 ~~Management~~ Services.

1079 Section 12. Paragraph (h) of subsection (3) of section
 1080 255.25, Florida Statutes, is amended to read:

1081 255.25 Approval required prior to construction or lease of
 1082 buildings.—

1083 (3)

1084 (h) ~~The Department of Management Services may,~~ Pursuant to
 1085 s. 287.042(2) ~~(a)~~, the department shall procure a term contract
 1086 for real estate consulting and brokerage services. A state
 1087 agency may not purchase services from the contract unless the
 1088 contract has been procured under s. 287.057(1) after March 1,
 1089 2007, and contains the following provisions or requirements:

1090 1. Awarded brokers ~~must~~ maintain an office or presence in
 1091 the market served. In awarding the contract, preference must be
 1092 given to brokers who ~~that~~ are licensed in this state under

1093 chapter 475 and who ~~that~~ have 3 or more years of experience in
 1094 the market served. The contract may be made with up to three
 1095 tenant brokers in order to serve the marketplace in the north,
 1096 central, and south areas of the state.

1097 2. Each contracted tenant broker works ~~shall work~~ under
 1098 the direction, supervision, and authority of the state agency,
 1099 subject to the rules governing lease procurements.

1100 3. The department provides ~~shall provide~~ training for the
 1101 awarded tenant brokers concerning the rules governing the
 1102 procurement of leases.

1103 4. Tenant brokers ~~must~~ comply with all applicable
 1104 provisions of s. 475.278.

1105 5. Real estate consultants and tenant brokers are ~~shall be~~
 1106 compensated by the state agency, subject to the provisions of
 1107 the term contract, and such compensation is subject to
 1108 appropriation by the Legislature. A real estate consultant or
 1109 tenant broker may not receive compensation directly from a
 1110 lessor for services that are rendered under the term contract.
 1111 Moneys paid by a lessor to the state agency under a facility
 1112 leasing arrangement are not subject to the charges imposed under
 1113 s. 215.20. All terms relating to the compensation of the real
 1114 estate consultant or tenant broker must ~~shall~~ be specified in
 1115 the term contract and may not be supplemented or modified by the
 1116 state agency using the contract.

1117 6. The department conducts ~~shall conduct~~ periodic
 1118 customer-satisfaction surveys.

1119 7. Each state agency reports ~~shall report~~ the following
 1120 information to the department:

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1121 a. The number of leases that adhere to the goal of the
 1122 workspace-management initiative of 180 square feet per full-time
 1123 employee FTE.

1124 b. The quality of space leased and the adequacy of tenant-
 1125 improvement funds.

1126 c. The timeliness of lease procurement, measured from the
 1127 date of the agency's request to the finalization of the lease.

1128 d. Whether cost-benefit analyses were performed before
 1129 execution of the lease in order to ensure that the lease is in
 1130 the best interest of the state.

1131 e. The lease costs compared to market rates for similar
 1132 types and classifications of space according to the official
 1133 classifications of the Building Owners and Managers Association.

1134 Section 13. Subsection (12) of section 287.012, Florida
 1135 Statutes, is amended to read:

1136 287.012 Definitions.—As used in this part, the term:

1137 (12) "Exceptional purchase" means any purchase of
 1138 commodities or contractual services excepted by law or rule from
 1139 the requirements for competitive solicitation, including, but
 1140 not limited to, purchases from a single source; purchases upon
 1141 receipt of fewer ~~less~~ than two responsive bids, proposals, or
 1142 replies; purchases made by an agency, after receiving approval
 1143 from the department, from a contract procured, pursuant to s.
 1144 287.057(1), or by another agency; and purchases made without
 1145 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)
 1146 ~~287.042(3)(b)~~.

1147 Section 14. Paragraph (a) of subsection (2) of section
 1148 402.7305, Florida Statutes, is amended to read:

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1149 402.7305 Department of Children and Family Services;
 1150 procurement of contractual services; contract management.—
 1151 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—
 1152 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~,
 1153 if ~~whenever~~ the department intends to contract with a public
 1154 postsecondary institution to provide a service, the department
 1155 must allow all public postsecondary institutions in this state
 1156 which ~~that~~ are accredited by the Southern Association of
 1157 Colleges and Schools to bid on the contract. Thereafter,
 1158 notwithstanding any other provision of law ~~to the contrary~~, if a
 1159 public postsecondary institution intends to subcontract for any
 1160 service awarded in the contract, the subcontracted service must
 1161 be procured by competitive procedures.

1162 Section 15. Subsection (3) of section 427.0135, Florida
 1163 Statutes, is amended to read:

1164 427.0135 Purchasing agencies; duties and
 1165 responsibilities.—Each purchasing agency, in carrying out the
 1166 policies and procedures of the commission, shall:

1167 (3) Not procure transportation disadvantaged services
 1168 without initially negotiating with the commission, as provided
 1169 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise
 1170 authorized by statute. If the purchasing agency, after
 1171 consultation with the commission, determines that it cannot
 1172 reach mutually acceptable contract terms with the commission,
 1173 the purchasing agency may contract for the same transportation
 1174 services provided in a more cost-effective manner and of
 1175 comparable or higher quality and standards. The Medicaid agency
 1176 shall implement this subsection in a manner consistent with s.

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1177 409.908(18) and as otherwise limited or directed by the General
 1178 Appropriations Act.

1179 Section 16. Subsection (2) of section 946.515, Florida
 1180 Statutes, is amended to read:

1181 946.515 Use of goods and services produced in correctional
 1182 work programs.—

1183 (2) A ~~No~~ similar product or service of comparable price
 1184 and quality found necessary for use by any state agency may not
 1185 be purchased from any source other than the corporation if the
 1186 corporation certifies that the product is manufactured by, or
 1187 the service is provided by, inmates and the product or service
 1188 meets the comparable performance specifications and comparable
 1189 price and quality requirements as specified under s.

1190 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual
 1191 agency as provided in this section. The purchasing authority of
 1192 ~~any~~ such state agency may make reasonable determinations of
 1193 need, price, and quality with reference to products or services
 1194 available from the corporation. In the event of a dispute
 1195 between the corporation and a ~~any~~ purchasing authority based
 1196 upon price or quality under this section or s. 287.042(1)(c)
 1197 ~~287.042(1)(f)~~, either party may request a hearing with the
 1198 Department of Management Services and, if not resolved, ~~either~~
 1199 ~~party~~ may request a proceeding pursuant to ss. 120.569 and
 1200 120.57, which shall be referred to the Division of
 1201 Administrative Hearings within 60 days after such request, to
 1202 resolve any dispute under this section. A ~~No~~ party is not
 1203 entitled to any appeal pursuant to s. 120.68.

1204 Section 17. Procurement review and report.—

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1205 (1) It is the policy of this state to promote the
1206 effective procurement of goods, services, and facilities by and
1207 for the executive branch of state government through the
1208 following:

1209 (a) Establishment of policies, procedures, and practices
1210 that require the state to procure goods, services, and
1211 facilities in a timely manner, of requisite quality, and at the
1212 lowest reasonable cost, using competitive bidding to the maximum
1213 extent possible.

1214 (b) Improvement in the quality, efficiency, economy, and
1215 performance of organizations and personnel involved in the
1216 procurement of goods, services, and facilities by the state.

1217 (c) Elimination of unnecessary, overlapping, or
1218 duplication of procurement and related activities, such as in
1219 contract administration.

1220 (d) Elimination of unnecessary or redundant requirements
1221 placed on contractors or on officials in charge of state
1222 procurement procedures.

1223 (e) Identification of gaps, omissions, or inconsistencies
1224 in state laws, rules, and directives relating to state
1225 procurement which should be brought to the attention of the
1226 Legislature.

1227 (f) Attainment of greater uniformity in and simplification
1228 of procurement procedures, whenever appropriate.

1229 (g) Coordination of the procurement policies and programs
1230 of the various state agencies, whenever possible.

1231 (h) Conformation of procurement policies and programs to
1232 other successfully established state policies and programs,

1233 whenever appropriate.

1234 (i) Minimization of the possible disruptive effects of
 1235 state procurement on particular industries, areas, or
 1236 occupations.

1237 (j) Improvement of training with respect to, and the
 1238 understanding of, the laws and policies of the state relating to
 1239 state procurement, not only within state government but on the
 1240 part of organizations and individuals doing business with the
 1241 state.

1242 (k) Promotion of fair dealing and equitable relationships
 1243 among the parties to state contracting.

1244 (l) Promotion of economy, efficiency, and effectiveness in
 1245 state procurement organizations, operations, and the uniform
 1246 reporting of procurement activities by any means that the Chief
 1247 Financial Officer deems beneficial and appropriate.

1248 (m) Special consideration given to the procurement laws,
 1249 policies, procedures, practices, organization, staffing,
 1250 leadership, and controls of the procurement processes of the
 1251 Federal Government and other states.

1252 (n) Promotion of economy, efficiency, and effectiveness in
 1253 procurement, contract management, and project management
 1254 operations.

1255 (2) In keeping with the policies expressed in subsection
 1256 (1), the Chief Financial Officer shall review and investigate:

1257 (a) All current state laws that govern the state
 1258 procurement of goods, services, and facilities;

1259 (b) The procurement policies, rules, procedures, and
 1260 practices followed by the state agencies, boards, commissions,

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1261 offices, and other instrumentalities of the executive branch of
1262 state government;

1263 (c) The organization and management processes involved in
1264 the state procurement of goods, services, and facilities before
1265 the award of a state procurement contract, during the
1266 solicitation of bids, the evaluation, and the negotiation of a
1267 contract, and subsequent to the award of the contract to
1268 determine the extent to which these organization and management
1269 processes facilitate the legislative policy set forth in this
1270 act; and

1271 (d) Any other areas that the Chief Financial Officer deems
1272 relevant to facilitating the policies expressed in subsection
1273 (1).

1274 (3) In order to accomplish the procurement review directed
1275 by this section, the Chief Financial Officer may:

1276 (a) Acquire information directly from the head of any
1277 state department or agency for the purpose of conducting this
1278 review. All departments and agencies shall cooperate with the
1279 Chief Financial Officer and furnish all information requested to
1280 the extent permitted by law.

1281 (b) Procure the services of experts and consultants.

1282 (c) Contract with private organizations and nonprofit
1283 institutions to carry out studies and prepare reports to
1284 facilitate the review.

1285 (4) By December 31, 2012, the Chief Financial Officer
1286 shall submit to the Governor, the President of the Senate, and
1287 the Speaker of the House of Representatives a report of findings
1288 and recommendations for changes in statutes, rules, policies,

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1289 procedures, and organization necessary to carry out the policies
1290 set forth in this act.

1291 Section 18. The Legislature recognizes the need to reform
1292 the purchasing cycle, from the development of a purchasing
1293 agreement to the payment for goods or services provided to the
1294 state. Therefore, chapter 287, Florida Statutes, is repealed
1295 effective July 30, 2014.

1296 Section 19. (1) For the 2012-2013 fiscal year, the sum of
1297 \$400,000 in nonrecurring funds is appropriated from the
1298 Administrative Trust Fund in the Department of Financial
1299 Services to contract for the Chief Financial Officer's review of
1300 the state's procurement process.

1301 (2) For the 2012-2013 fiscal year, the sum of \$400,000 in
1302 recurring funds from the General Revenue fund and full-time
1303 equivalent positions and associated salary rate of are
1304 appropriated to the Chief Financial Officer for the purpose of
1305 implementing the Chief Financial Officer's expanded contract
1306 auditing responsibilities under this act. Funds remaining
1307 unexpended or unencumbered from this appropriation as of June
1308 30, 2013, shall revert and be reappropriated for the same
1309 purpose in the 2013-2014 fiscal year.

1310 Section 20. This act shall take effect July 1, 2012.