

By the Committees on Governmental Oversight and Accountability;
and Banking and Insurance; and Senator Gaetz

585-03103-12

20121626c2

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

585-03103-12

20121626c2

30 responsibilities of the Department of Management
31 Services under ch. 287, F.S., with the Department of
32 Financial Services; amending s. 287.042, F.S.;
33 limiting the duties of the Department of Management
34 Services to the procurement of commodities and
35 contractual services; directing the department to
36 develop a list of interested vendors; deleting
37 provisions requiring that the department perform
38 duties relating to procurement and contracting
39 policies and procedures; creating s. 287.044, F.S.;
40 assigning duties relating to procurement and
41 contracting policies and procedures to the Department
42 of Financial Services; requiring the department to
43 develop a list of vendors not allowed to do business
44 with the state; amending s. 287.057, F.S.; revising
45 the list of contractual services and commodities that
46 are exempt from competitive solicitation to delete
47 certain services from the exemption; revising
48 provisions prohibiting an agency from dividing a
49 solicitation; conforming provisions to changes made by
50 the act; authorizing an agency or other eligible user
51 to purchase commodities or services through another
52 agency's contract; amending s. 287.058, F.S.;
53 requiring contracts to include a performance measure
54 for each deliverable; authorizing the Chief Financial
55 Officer to review and approve contracts; providing
56 requirements for such reviews; authorizing the Chief
57 Financial Officer to establish dollar thresholds and
58 another criteria for sampling agreements that are to

585-03103-12

20121626c2

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

585-03103-12

20121626c2

88 study; repealing ch. 287, F.S., on a future date;
89 providing appropriations; providing effective dates.

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

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

95 11.45 Definitions; duties; authorities; reports; rules.—

96 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

97 (a) The Auditor General must ~~shall~~ notify the Legislative
98 Auditing Committee of any local governmental entity, district
99 school board, charter school, or charter technical career center
100 that does not comply with the reporting requirements of s.
101 215.985 or s. 218.39.

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

113 Section 2. Section 215.971, Florida Statutes, is amended to
114 read:

115 215.971 Agreements funded with federal and state
116 assistance.—

585-03103-12

20121626c2

117 (1) For an agency agreement that provides state financial
118 assistance to a recipient or subrecipient, as those terms are
119 defined in s. 215.97, or that provides federal financial
120 assistance to a subrecipient, as defined by applicable United
121 States Office of Management and Budget circulars, the agreement
122 ~~must shall~~ include a provision:

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

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

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

143 (3) The Chief Financial Officer may establish dollar
144 thresholds and other criteria for sampling the agreements that
145 are to be reviewed prior to execution. The Chief Financial

585-03103-12

20121626c2

146 Officer may revise such thresholds and other criteria for an
147 agency or the unit of any agency as he or she deems appropriate.

148 (4) The department has 30 days to make a final
149 determination regarding approval of an agreement. The department
150 and the agency entering into the agreement may agree to a longer
151 review period to ensure the thorough consideration of the
152 procurement process and its results.

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

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

172 215.985 Transparency in government spending.—

173 (16) The Chief Financial Officer shall establish and
174 maintain a secure, shared, intergovernmental contract tracking

585-03103-12

20121626c2

175 ~~provide public access to a state contract management system.~~

176 (a) Within 30 calendar days after executing a contract,
177 each state agency as defined in s. 216.011(1), and, effective
178 November 1, 2013, each local governmental entity and independent
179 special district as defined in s. 218.31, each district school
180 board as described in s. 1001.32, the Board of Governors of the
181 State University System as described in s. 1001.70, and each
182 Florida College System institution board of trustees as
183 described in s. 1001.61 must post the following ~~that provides~~
184 information and documentation relating to ~~that contract on the~~
185 contract tracking system: ~~contracts procured by governmental~~
186 entities.

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

585-03103-12

20121626c2

204 12. Electronic copies of the contract and procurement
205 documents, including any provision that may have been redacted
206 to conceal exempt or confidential information; and

207 13. Any other information regarding the contract or the
208 procurement which may be required by the Department of Financial
209 Services.

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

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

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

585-03103-12

20121626c2

233 1. If an entity becomes aware that an electronic copy of a
234 contract or procurement document that it posted has not been
235 properly redacted, the entity must replace the electronic copy
236 of the documents with a redacted copy.

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

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

252 b. If necessary, a party to the contract may petition the
253 circuit court for an order directing compliance with this
254 paragraph.

255 3. The Chief Financial Officer, the Department of Financial
256 Services, or any officer, employee, or contractor thereof, is
257 not responsible for redacting exempt or confidential information
258 from an electronic copy of a contract or procurement document
259 posted by another entity on the system, and is not liable for
260 the failure of the entity to redact the exempt or confidential
261 information. The Department of Financial Services may notify the

585-03103-12

20121626c2

262 posting entity if it discovers that a document posted on the
263 tracking system contains exempt or confidential information.

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

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

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

290 a. Criminal intelligence or criminal investigative

585-03103-12

20121626c2

291 information as defined in s. 119.011;
292 b. Surveillance techniques or procedures or personnel;
293 c. The identity of a confidential informant or confidential
294 source;
295 d. The identify of undercover personnel of a criminal
296 justice agency;
297 e. A security system plan; or
298 f. Trade secret as defined in s. 688.002 or s. 812.081.
299 (e) The posting of information on the contract tracking
300 system or the provision of contract information on a website for
301 public viewing and downloading does not eliminate the duty of an
302 entity to respond to a public record request for such
303 information or to a subpoena for such information.
304 1. A request for a copy of a contract or procurement
305 document or a certified copy of a contract or procurement
306 document shall be made to the entity that is party to the
307 contract and that maintains the original documents. Such request
308 may not be made to the Chief Financial Officer or the Department
309 of Financial Services or any officer, employee, or contractor
310 thereof unless the Chief Financial Officer or the department is
311 a party to the contract.
312 2. A subpoena for a copy of a contract or procurement
313 document or certified copy of a contract or procurement document
314 must be served on the entity that is a party to the contract and
315 that maintains the original documents. The Chief Financial
316 Officer or the Department of Financial Services or any officer,
317 employee, or contractor thereof may not be served a subpoena for
318 those records unless the Chief Financial Officer or the
319 department is a party to the contract.

585-03103-12

20121626c2

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

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

323 Section 5. Effective October 1, 2013, section 287.032,
324 Florida Statutes, is amended to read:

325 287.032 Departmental responsibility ~~purpose of department.~~

326 Pursuant to the administration of this chapter:

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

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

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

335 (b) ~~(3) To~~ Procure and distribute federal surplus tangible
336 personal property allocated to the state by the Federal
337 Government.

338 (2) The responsibility of the Department of Financial
339 Services is to:

340 (a) Provide uniform commodity and contractual service
341 procurement policies, rules, procedures, and forms for use by
342 agencies and eligible users.

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

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

347 287.042 Powers, duties, and functions of the Department of
348 Management Services.—The department is responsible for the

585-03103-12

20121626c2

349 procurement of commodities and contractual services for agencies
350 and has ~~shall have~~ the following powers, duties, and functions:

351 (1) ~~(a)~~ To canvass all sources of supply, establish and
352 maintain a vendor list, and contract for the purchase, lease, or
353 acquisition, including purchase by installment sales or lease-
354 purchase contracts which may provide for the payment of interest
355 on unpaid portions of the purchase price, of all commodities and
356 contractual services required by an any agency under this
357 chapter. A Any contract providing for deferred payments and the
358 payment of interest is ~~shall be~~ subject to specific rules
359 adopted by the Department of Financial Services.

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

371 (b) ~~(c)~~ In order to promote the cost-effective procurement
372 of commodities and contractual services, the department or an
373 agency may enter into contracts that limit the liability of a
374 vendor consistent with s. 672.719.

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

585-03103-12

20121626c2

378 (c)~~(e)~~ The department shall include the products offered by
379 the corporation operating the correctional industry program on
380 any listing prepared by the department which lists state term
381 contracts executed by the department. The products or services
382 shall be placed on such list in a category based upon
383 specification criteria developed through a joint effort of the
384 department and the corporation and approved by the department.

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

393 2. The department shall issue a commodity number for all
394 products of the corporation which meet or exceed department
395 specifications.

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

405 (e)~~(h)~~ The department may collect fees for the use of its
406 electronic information services. The fees may be imposed on an

585-03103-12

20121626c2

407 individual transaction basis or as a fixed subscription for a
408 designated period of time. At a minimum, the fees shall be
409 determined in an amount sufficient to cover the department's
410 projected costs for ~~of~~ the services, including overhead, in
411 accordance with the policies of the department ~~of Management~~
412 ~~Services~~ for computing its administrative assessment. All fees
413 collected under this paragraph shall be deposited in the
414 Operating Trust Fund for disbursement as provided by law.

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

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

585-03103-12

20121626c2

436 correctional work programs, of products or services that are
437 subject to paragraph (1)(c) ~~(1)(f)~~, are exempt from the
438 competitive solicitation requirements otherwise applying to
439 their purchases.

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

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

463 1. The estimated contract amount shall be based upon the
464 contract price submitted by the protestor or, if no contract

585-03103-12

20121626c2

465 price was submitted, the department, water management district,
466 or agency shall estimate the contract amount based on factors,
467 including, but not limited to, the price of previous or existing
468 contracts for similar commodities or contractual services, the
469 amount appropriated by the Legislature for the contract, or the
470 fair market value of similar commodities or contractual
471 services. The agency shall provide the estimated contract amount
472 to the vendor within 72 hours, excluding Saturdays, Sundays, and
473 state holidays, after the filing of the notice of protest by the
474 vendor. The estimated contract amount is not subject to protest
475 pursuant to s. 120.57(3).

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

480 3. In lieu of a bond, the department, ~~the~~ water management
481 district, or agency may, ~~in either case,~~ accept a cashier's
482 check, official bank check, or money order in the amount of the
483 bond.

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

585-03103-12

20121626c2

494 appellate court proceedings, the protestor prevails, the
495 protestor may ~~shall~~ recover from the department, water
496 management district, or agency all costs and charges that are
497 ~~which shall be~~ included in the final order or judgment,
498 excluding attorney ~~attorney's~~ fees.

499 5. This paragraph does not apply to protests filed by the
500 office.

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

505 ~~(a) Development of a list of interested vendors to be~~
506 ~~maintained by classes of commodities and contractual services.~~
507 ~~This list shall not be used to prequalify vendors or to exclude~~
508 ~~any interested vendor from bidding.~~

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

520 ~~2. Development of procedures for electronic posting. The~~
521 ~~department shall designate a centralized website on the Internet~~
522 ~~for the department and other agencies to electronically post~~

585-03103-12

20121626c2

523 ~~solicitations, decisions or intended decisions, and other~~
524 ~~matters relating to procurement.~~

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

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

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

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

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

551 ~~(h) Development of procedures to be used by state agencies~~

585-03103-12

20121626c2

552 ~~when procuring information technology commodities and~~
553 ~~contractual services that ensure compliance with public records~~
554 ~~requirements and records retention and archiving requirements.~~

555 ~~(4) (a) To prescribe the methods of securing competitive~~
556 ~~sealed bids, proposals, and replies. Such methods may include,~~
557 ~~but are not limited to, procedures for identifying vendors;~~
558 ~~setting qualifications; conducting conferences or written~~
559 ~~question and answer periods for purposes of responding to vendor~~
560 ~~questions; evaluating bids, proposals, and replies; ranking and~~
561 ~~selecting vendors; and conducting negotiations.~~

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

570 ~~(3) (5) To prescribe specific commodities and quantities to~~
571 ~~be purchased locally.~~

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

575 ~~(4) (b) Except for the purchase of insurance, to the~~
576 ~~department may delegate to agencies the authority for the~~
577 ~~procurement of and contracting for commodities or contractual~~
578 ~~services.~~

579 ~~(7) To establish definitions and classes of commodities and~~
580 ~~contractual services. Agencies shall follow the definitions and~~

585-03103-12

20121626c2

581 ~~classes of commodities and contractual services established by~~
582 ~~the department in acquiring or purchasing commodities or~~
583 ~~contractual services. The authority of the department under this~~
584 ~~section shall not be construed to impair or interfere with the~~
585 ~~determination by state agencies of their need for, or their use~~
586 ~~of, services including particular specifications.~~

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

596 ~~(5)~~(9) To require that every agency furnish information
597 relative to its commodity and contractual services purchases and
598 methods of purchasing commodities and contractual services to
599 the department when so requested.

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

607 ~~(11) To establish and maintain programs for the purpose of~~
608 ~~disseminating information to government, industry, educational~~
609 ~~institutions, and the general public concerning policies,~~

585-03103-12

20121626c2

610 ~~procedures, rules, and forms for the procurement of commodities~~
611 ~~and contractual services.~~

612 (7) ~~(12)~~ Except as otherwise provided in this section
613 ~~herein~~, to adopt rules necessary to carry out the purposes of
614 this section, including the authority to delegate to any agency
615 any and all of the responsibility conferred by this section,
616 retaining to the department any and all authority for
617 supervision thereof. Such purchasing of commodities and
618 procurement of contractual services by state agencies must also
619 ~~shall~~ be in strict accordance with the rules and procedures
620 prescribed by the Department of Financial Services.

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

630 (9) ~~(14)~~ To procure and distribute federal surplus tangible
631 personal property allocated to the state by the Federal
632 Government.

633 (10) ~~(15)~~ To enter into joint agreements with governmental
634 agencies, as defined in s. 163.3164, for the purpose of pooling
635 funds for the purchase of commodities or information technology
636 that can be used by multiple agencies.

637 (a) Each agency that has been appropriated or has existing
638 funds for such purchase, shall, upon contract award by the

585-03103-12

20121626c2

639 department, transfer their portion of the funds into the
640 department's Operating Trust Fund for payment by the department.
641 The funds shall be transferred by the Executive Office of the
642 Governor pursuant to the agency budget amendment request
643 provisions in chapter 216.

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

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

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

585-03103-12

20121626c2

668 (a)~~(b)~~ The department shall also ~~to~~ manage and enforce
669 compliance with existing or future contracts entered into
670 pursuant to chapter 957.

671 (b) The department may not delegate the responsibilities
672 conferred by this subsection.

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

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

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

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

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

696 2. The office may consult with the department regarding the

585-03103-12

20121626c2

697 development of solicitation distribution procedures to ensure
698 that maximum distribution is afforded to certified minority
699 business enterprises as defined in s. 288.703.

700 3. The department shall designate a centralized website on
701 the Internet for the department and other agencies to
702 electronically post solicitations, decisions or intended
703 decisions, and other matters relating to procurement.

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

706 (c) The development of procedures to be used by state
707 agencies when procuring information technology commodities and
708 contractual services which ensure compliance with public records
709 requirements and records retention and archiving requirements.

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

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

722 (f) The development of procedures for recording and
723 maintaining support documentation for a cost or price analysis
724 to be performed before the award of a contract in excess of the
725 threshold amount provided in s. 287.017 for CATEGORY FOUR. The

585-03103-12

20121626c2

726 cost or price analysis shall be used to validate the
727 reasonableness of bids, proposals, or replies.

728 (g) The development of procedures to be used by state
729 agencies when entering into contracts which ensure standard
730 formats, quantifiable and measurable deliverables, performance
731 measures, and financial consequences for nonperformance.

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

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

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

585-03103-12

20121626c2

755 (4) To govern the purchase by an agency of any commodity or
756 contractual service and to establish standards and
757 specifications for a commodity. The Chief Financial Officer
758 shall establish definitions and classes of commodities and
759 contractual services which agencies must adhere to in acquiring
760 or purchasing commodities or contractual services. The
761 department's authority under this section may not impair or
762 interfere with an agency's determination of its need for, or use
763 of, services that include particular specifications.

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

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

778 (7) To establish and maintain a list of vendors that are
779 not allowed to do business with the state pursuant to ss.
780 287.132(4) and 287.133. The department may add to the list
781 vendors that are not compliant with federal or state laws, or
782 that the department determines have uncollected accounts that
783 are owed to the state.

585-03103-12

20121626c2

784 Section 8. Paragraph (f) of subsection (3) and subsections
785 (9), (14), and (16) of section 287.057, Florida Statutes, are
786 amended, and subsection (24) is added to that section, to read:

787 287.057 Procurement of commodities or contractual
788 services.—

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

795 (f) The following contractual services and commodities are
796 not subject to the competitive-solicitation requirements of this
797 section:

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

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

807 ~~3. Lectures by individuals.~~

808 1.4. Legal services, including attorney, paralegal, expert
809 witness, appraisal, or mediator services.

810 2.5.a. Health services involving examination, diagnosis,
811 treatment, prevention, medical consultation, or administration,
812 and,

585-03103-12

20121626c2

813 ~~b.~~ beginning January 1, 2011, health services, including,
814 but not limited to, substance abuse and mental health services,
815 involving examination, diagnosis, treatment, prevention, or
816 medical consultation, if ~~when~~ such services are offered to
817 eligible individuals participating in a specific program that
818 qualifies multiple providers and uses a standard payment
819 methodology. Reimbursement of administrative costs for providers
820 of services purchased in this manner are ~~shall~~ also ~~be~~ exempt.
821 For purposes of this subparagraph ~~sub-subparagraph~~, the term
822 "providers" means health professionals, health facilities, or
823 organizations that deliver or arrange for the delivery of health
824 services.

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

833 4.7. Medicaid services delivered to an eligible Medicaid
834 recipient, unless the agency is directed otherwise in law.

835 5.8. Family placement services.

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

585-03103-12

20121626c2

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

844 ~~7.11.~~ Contracts entered into pursuant to s. 337.11.

845 ~~8.12.~~ Services or commodities provided by governmental
846 agencies.

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

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

870 (16) For a contract in excess of the threshold amount

585-03103-12

20121626c2

871 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
872 appoint:

873 (a) At least three persons to evaluate proposals and
874 replies who collectively have experience and knowledge in the
875 program areas and service requirements for which commodities or
876 contractual services are sought.

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

897 (24) An agency or other eligible user may purchase
898 commodities or services through another agency's existing
899 contract rather than through competitive competition if the use

585-03103-12

20121626c2

900 of such contract is in the best interest of the state.

901 Section 9. Paragraph (e) of subsection (1) of section
902 287.058, Florida Statutes, is amended, and subsections (7)
903 through (11) are added to that section, to read:

904 287.058 Contract document.—

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

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

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

585-03103-12

20121626c2

929 lieu of printing the provisions of paragraphs (a)-(i) in the
930 contract document or purchase order, agencies may incorporate
931 the requirements of paragraphs (a)-(i) by reference.

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

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

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

952 (a) Evidence of advertising the procurement opportunity, if
953 applicable;

954 (b) The bid, proposal, or reply itself, whether an
955 invitation to bid, request for proposals, or invitation to
956 negotiate, as applicable;

957 (c) The preprocurement conference questions and answers;

585-03103-12

20121626c2

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

585-03103-12

20121626c2

987 procurement process and its results.

988 Section 10. Subsection (3) of section 287.095, Florida
989 Statutes, is repealed.

990 Section 11. Section 287.1312, Florida Statutes, is created
991 to read:

992 287.1312 Contract manager certification.—

993 (1) The Department of Financial Services shall establish a
994 training certification program for contract and grant managers
995 and negotiators of contracts and grants. A state employee may
996 not manage a contract or grant agreement in excess of the
997 threshold amount provided in s. 287.017 for CATEGORY FIVE
998 without obtaining a valid certification from the Department of
999 Financial Services under this section. The program must include
1000 training in the following areas:

1001 (a) Procurement and the development of contracts.

1002 (b) Development and administration of grant agreements
1003 involving federal and state financial assistance.

1004 (c) Responsibilities of a contract manager in the
1005 management of state contracts and grant agreements.

1006 (d) Federal and state audit and reporting requirements.

1007 (e) Laws and rules relating to procurement and contract
1008 administration.

1009 (f) Any other subject matter that the Chief Financial
1010 Officer determines will promote accountability in contract and
1011 grant management.

1012 (2) The program shall provide for periodic recertification,
1013 as necessary. The Department of Financial Services shall
1014 determine course requirements, maintain information on
1015 certifications, and monitor the performance of contract and

585-03103-12

20121626c2

1016 grant managers. As part of such monitoring, the department shall
1017 annually publish the results of agency manager audits and error
1018 rates related to contract and grant management on its website.

1019 (3) The Department of Financial Services may revoke a
1020 manager's certification for incompetence or conduct inconsistent
1021 with the responsibilities of contract or grant management.

1022 (4) The Department of Financial Services shall adopt rules
1023 to administer this section.

1024 Section 12. Paragraph (d) of subsection (1) of section
1025 287.133, Florida Statutes, is amended to read:

1026 287.133 Public entity crime; denial or revocation of the
1027 right to transact business with public entities.—

1028 (1) As used in this section:

1029 (d) "Department" means the Department of Financial
1030 ~~Management~~ Services.

1031 Section 13. Paragraph (h) of subsection (3) of section
1032 255.25, Florida Statutes, is amended to read:

1033 255.25 Approval required prior to construction or lease of
1034 buildings.—

1035 (3)

1036 (h) ~~The Department of Management Services may,~~ Pursuant to
1037 s. 287.042(2) ~~(a)~~, the department shall procure a term contract
1038 for real estate consulting and brokerage services. A state
1039 agency may not purchase services from the contract unless the
1040 contract has been procured under s. 287.057(1) after March 1,
1041 2007, and contains the following provisions or requirements:

1042 1. Awarded brokers ~~must~~ maintain an office or presence in
1043 the market served. In awarding the contract, preference must be
1044 given to brokers who ~~that~~ are licensed in this state under

585-03103-12

20121626c2

1045 chapter 475 and who ~~that~~ have 3 or more years of experience in
1046 the market served. The contract may be made with up to three
1047 tenant brokers in order to serve the marketplace in the north,
1048 central, and south areas of the state.

1049 2. Each contracted tenant broker works ~~shall work~~ under the
1050 direction, supervision, and authority of the state agency,
1051 subject to the rules governing lease procurements.

1052 3. The department provides ~~shall provide~~ training for the
1053 awarded tenant brokers concerning the rules governing the
1054 procurement of leases.

1055 4. Tenant brokers ~~must~~ comply with all applicable
1056 provisions of s. 475.278.

1057 5. Real estate consultants and tenant brokers are ~~shall be~~
1058 compensated by the state agency, subject to the provisions of
1059 the term contract, and such compensation is subject to
1060 appropriation by the Legislature. A real estate consultant or
1061 tenant broker may not receive compensation directly from a
1062 lessor for services that are rendered under the term contract.
1063 Moneys paid by a lessor to the state agency under a facility
1064 leasing arrangement are not subject to the charges imposed under
1065 s. 215.20. All terms relating to the compensation of the real
1066 estate consultant or tenant broker must ~~shall~~ be specified in
1067 the term contract and may not be supplemented or modified by the
1068 state agency using the contract.

1069 6. The department conducts ~~shall conduct~~ periodic customer-
1070 satisfaction surveys.

1071 7. Each state agency reports ~~shall report~~ the following
1072 information to the department:

1073 a. The number of leases that adhere to the goal of the

585-03103-12

20121626c2

1074 workspace-management initiative of 180 square feet per full-time
1075 employee FTE.

1076 b. The quality of space leased and the adequacy of tenant-
1077 improvement funds.

1078 c. The timeliness of lease procurement, measured from the
1079 date of the agency's request to the finalization of the lease.

1080 d. Whether cost-benefit analyses were performed before
1081 execution of the lease in order to ensure that the lease is in
1082 the best interest of the state.

1083 e. The lease costs compared to market rates for similar
1084 types and classifications of space according to the official
1085 classifications of the Building Owners and Managers Association.

1086 Section 14. Subsection (12) of section 287.012, Florida
1087 Statutes, is amended to read:

1088 287.012 Definitions.—As used in this part, the term:

1089 (12) "Exceptional purchase" means any purchase of
1090 commodities or contractual services excepted by law or rule from
1091 the requirements for competitive solicitation, including, but
1092 not limited to, purchases from a single source; purchases upon
1093 receipt of fewer ~~less~~ than two responsive bids, proposals, or
1094 replies; purchases made by an agency, after receiving approval
1095 from the department, from a contract procured, pursuant to s.
1096 287.057(1), or by another agency; and purchases made without
1097 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)
1098 ~~287.042(3)(b)~~.

1099 Section 15. Paragraph (a) of subsection (2) of section
1100 402.7305, Florida Statutes, is amended to read:

1101 402.7305 Department of Children and Family Services;
1102 procurement of contractual services; contract management.—

585-03103-12

20121626c2

1103 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

1104 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, if
1105 ~~whenever~~ the department intends to contract with a public
1106 postsecondary institution to provide a service, the department
1107 must allow all public postsecondary institutions in this state
1108 which ~~that~~ are accredited by the Southern Association of
1109 Colleges and Schools to bid on the contract. Thereafter,
1110 notwithstanding any other provision of law ~~to the contrary~~, if a
1111 public postsecondary institution intends to subcontract for any
1112 service awarded in the contract, the subcontracted service must
1113 be procured by competitive procedures.

1114 Section 16. Subsection (3) of section 427.0135, Florida
1115 Statutes, is amended to read:

1116 427.0135 Purchasing agencies; duties and responsibilities.—
1117 Each purchasing agency, in carrying out the policies and
1118 procedures of the commission, shall:

1119 (3) Not procure transportation disadvantaged services
1120 without initially negotiating with the commission, as provided
1121 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise
1122 authorized by statute. If the purchasing agency, after
1123 consultation with the commission, determines that it cannot
1124 reach mutually acceptable contract terms with the commission,
1125 the purchasing agency may contract for the same transportation
1126 services provided in a more cost-effective manner and of
1127 comparable or higher quality and standards. The Medicaid agency
1128 shall implement this subsection in a manner consistent with s.
1129 409.908(18) and as otherwise limited or directed by the General
1130 Appropriations Act.

1131 Section 17. Subsection (2) of section 946.515, Florida

585-03103-12

20121626c2

1132 Statutes, is amended to read:

1133 946.515 Use of goods and services produced in correctional
1134 work programs.—

1135 (2) A ~~No~~ similar product or service of comparable price and
1136 quality found necessary for use by any state agency may not be
1137 purchased from any source other than the corporation if the
1138 corporation certifies that the product is manufactured by, or
1139 the service is provided by, inmates and the product or service
1140 meets the comparable performance specifications and comparable
1141 price and quality requirements as specified under s.

1142 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual
1143 agency as provided in this section. The purchasing authority of
1144 ~~any~~ such state agency may make reasonable determinations of
1145 need, price, and quality with reference to products or services
1146 available from the corporation. In the event of a dispute
1147 between the corporation and a ~~any~~ purchasing authority based
1148 upon price or quality under this section or s. 287.042(1)(c)
1149 ~~287.042(1)(f)~~, either party may request a hearing with the
1150 Department of Management Services and, if not resolved, ~~either~~
1151 ~~party~~ may request a proceeding pursuant to ss. 120.569 and
1152 120.57, which shall be referred to the Division of
1153 Administrative Hearings within 60 days after such request, to
1154 resolve any dispute under this section. A ~~No~~ party is not
1155 entitled to any appeal pursuant to s. 120.68.

1156 Section 18. Procurement review and report.—

1157 (1) The Chief Financial Officer shall review and
1158 investigate:

1159 (a) All current state laws that govern the state
1160 procurement of goods, services, and facilities;

585-03103-12

20121626c2

1161 (b) The procurement policies, rules, procedures, and
1162 practices followed by the state agencies, boards, commissions,
1163 offices, and other instrumentalities of the executive branch of
1164 state government;

1165 (c) The organization and management processes involved in
1166 the state procurement of goods, services, and facilities before
1167 the award of a state procurement contract, during the
1168 solicitation of bids, the evaluation, and the negotiation of a
1169 contract, and subsequent to the award of the contract to
1170 determine the extent to which these organization and management
1171 processes facilitate the legislative policy set forth in this
1172 act; and

1173 (d) Any other areas that the Chief Financial Officer deems
1174 relevant to the review and investigation.

1175 (2) In order to accomplish the procurement review directed
1176 by this section, the Chief Financial Officer may:

1177 (a) Acquire information directly from the head of any state
1178 department or agency for the purpose of conducting this review.
1179 All departments and agencies shall cooperate with the Chief
1180 Financial Officer and furnish all information requested to the
1181 extent permitted by law.

1182 (b) Procure the services of experts and consultants.

1183 (c) Contract with private organizations and nonprofit
1184 institutions to carry out studies and prepare reports to
1185 facilitate the review.

1186 (3) By December 31, 2012, the Chief Financial Officer shall
1187 submit to the Governor, the President of the Senate, and the
1188 Speaker of the House of Representatives a report of findings and
1189 recommendations for changes in statutes, rules, policies,

585-03103-12

20121626c2

1190 procedures, and organization necessary to carry out the policies
1191 set forth in this act.

1192 Section 19. The Legislature recognizes the need to reform
1193 the purchasing cycle, from the development of a purchasing
1194 agreement to the payment for goods or services provided to the
1195 state. Therefore, chapter 287, Florida Statutes, is repealed
1196 effective July 30, 2014.

1197 Section 20. (1) For the 2012-2013 fiscal year, the sum of
1198 \$400,000 in nonrecurring funds is appropriated from the
1199 Administrative Trust Fund in the Department of Financial
1200 Services to contract for the Chief Financial Officer's review of
1201 the state's procurement process.

1202 (2) For the 2012-2013 fiscal year, the sum of \$375,000 in
1203 recurring funds is appropriated from the Administrative Trust
1204 Fund in the Department of Financial Services to contract for the
1205 Chief Financial Officer's administration of the certified
1206 contract manager and negotiator programs.

1207 (3) For the 2012-2013 fiscal year, the sum of \$4,067,000 in
1208 recurring funds from the General Revenue Fund and 36 full-time
1209 equivalent positions and associated salary rate of 1,902,588 are
1210 appropriated to the Chief Financial Officer for the purpose of
1211 implementing the Chief Financial Officer's expanded contract
1212 auditing responsibilities under this act. Funds remaining
1213 unexpended or unencumbered from this appropriation as of June
1214 30, 2013, shall revert and be reappropriated for the same
1215 purpose in the 2013-2014 fiscal year.

1216 Section 21. Except as otherwise expressly provided in this
1217 act, this act shall take effect July 1, 2012.